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Letter dated 30 July 2012 from the Ombudsperson addressed to the President of the Security Council

I have the honour to submit herewith the fourth report of the Office of the Ombudsperson, pursuant to paragraph 16 (c) of annex II to Security Council resolution 1989 (2011), according to which the Ombudsperson shall submit biannual reports to the Council summarizing her activities. The report describes the activities carried out by the Office of the Ombudsperson during the six-month period since the issuance of the previous report, from 21 January to 20 July 2012.

I would appreciate it if the present letter and the report were brought to the attention of members of the Security Council and issued as a document of the Council.

(*Signed*) Kimberly **Prost**
Ombudsperson

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Report of the Office of the Ombudsperson pursuant to Security Council resolution 1989 (2011)

I. Background

1. The present report provides an update on the activities undertaken by the Office of the Ombudsperson since the issuance of the third report of the Office (S/2012/49), from 21 January to 20 July 2012.

II. Summary of activities: delisting cases

General

2. The primary activities of the Office of the Ombudsperson during the six-month period covered by the present report have related to the delisting requests submitted by individuals and entities.

3. Nine new cases were submitted to the Office of the Ombudsperson in the current reporting period,[1] bringing the total number of delisting petitions submitted since the establishment of the Office to 30 as at 20 July 2012. All of these were accepted and are currently at various stages of the process provided for in annex II to resolution 1989 (2011). Unless requested by the petitioner, all names remain confidential while under consideration and remain so in the event of the denial of the request or the withdrawal of the petition.

4. In total, 19 comprehensive reports have been submitted to the Committee since the Office was established, 8 of them during the current reporting period. The Ombudsperson has appeared before the Committee on seven occasions during the reporting period to present reports on 11 cases.

5. Since the issuance of the third report, 11 individuals[2] and 19 entities[3,4,5] have been delisted.[6] Seventeen of these entities were in a petition submitted by Ahmed

[1] Two cases were submitted as repeat petitions and were accepted on the basis that new information had been presented.

[2] Ahmed Ali Nur Jim'ale, Mondher ben Mohsen ben Ali al-Baazaoui, Sa'd Abdullah Hussein al-Sharif, Fethi Ben al-Rebei Absha M'hasri, Mounir Ben Habib Ben al-Taher Jarraya, Kamal ben Mohamed ben Ahmed Darraji, Ibrahim Abdul Salam Mohamed Boyasseer, Rachid Fettar, Chabaane ben Mohamed ben Mohamed al-Trabelsi, Saad Rashed Mohammed al-Faqih and Ali Mohamed el Heit.

[3] Al Baraka Exchange, LLC, Barakaat Telecommunications Co. Somalia, Ltd., Barakaat Bank of Somalia, Barako Trading Company, LLC, Al-Barakaat, Al-Barakaat Bank, Al-Barakaat Bank of Somalia, Al-Barakat Finance Group, Al-Barakat Financial Holding Co., Al-Barakat Global Telecommunications, Al-Barakat Group of Companies Somalia Limited, Al-Barakat International, Al-Barakat Investments, Barakaat Group of Companies, Barakaat Red Sea Telecommunications, Barakat International Companies, Barakat Telecommunications Company Limited and Movement for Reform in Arabia.

[4] Ahmed Ali Nur Jim'ale and 23 "Barakaat" entities were the subject of one petition. Six entities had been delisted during the previous reporting period, while the individual and the 17 remaining entities were delisting during the present period.

[5] Saad Rashed Mohammed al-Faqih and Movement for Reform in Arabia were considered as one request.

[6] In the case of Fondation Secours Mondial, it was referenced in the list only as an alias of Global Relief Foundation (QE.G.91.02). The Global Relief Foundation entry was amended to remove Fondation Secours Mondial as an alias.

Ali Nur Jim'ale and 23 entities. No delisting requests have been refused or withdrawn since the third report. Cumulatively, since the Office was founded, 19 cases have been completed, 16 individuals and 24 entities have been delisted, one entity has been removed as an alias of a listed entity, one delisting request has been refused and one petition has been withdrawn. A description of the status of all of the cases, as of the date of the present report, is contained in the annex to the present report.

6. Eight of the nine requests submitted to the Office during the reporting period were made by individuals alone, while one was by an entity alone. Four of the eight individuals are represented by counsel. In total, 25 of the 30 cases submitted to the Office since its establishment have been brought by individuals alone, two by an individual together with one or more entities and three by entities alone. In 21 of the 30 cases, the petitioner is/was assisted by legal counsel.

7. Since the issuance of the third report, the Ombudsperson has also worked on the new and pending requests for which comprehensive reports have yet to be completed. This has included circulating requests to relevant States and following up with their representatives, sometimes on multiple occasions. She has consulted with the Analytical Support and Sanctions Monitoring Team and conducted independent research, extensively in some cases, in order to gather relevant information.

Gathering of information from States

8. In the nine cases submitted to the Ombudsperson since the issuance of the third report, 31 requests for information have been sent so far, to 19 States. In the eight cases where a comprehensive report has been submitted to the Committee during the reporting period, responses have been received from 12 of the 15 States contacted. Some States provided multiple responses. In addition, some Committee members provided information in response to the general circulation of a petition. Importantly, in the same eight cases, the designating States and States of residence all provided responses.

9. In all eight cases where comprehensive reports have been submitted to the Committee during the reporting period, the Ombudsperson has asked questions of relevant States. On five occasions she has met with officials in capitals to gather information on specific cases directly.

Dialogue with the petitioner

10. During the reporting period, the Ombudsperson continued to ask questions of the petitioner in each of the cases that had reached or advanced through the dialogue phase. The petitioner responded in all cases with respect to which dialogue had been completed. This exchange took various forms, depending on the nature of the case, including e-mail exchanges and telephone discussions. Noting the Security Council preference for meetings with petitioners,[7] the Ombudsperson travelled to meet with

[7] Paragraph 6 (c) of annex II to Security Council resolution 1989 (2011) states that the Ombudsperson "should meet with the petitioner, to the extent possible".

six petitioners for a face-to-face interview.[8] Questions to the petitioners have included matters raised by States and the Monitoring Team.

11. Exchanges with the petitioner in the dialogue phase continue to be vital to the effectiveness of the process. They provide the Ombudsperson with clearer insight as to the facts and underlying circumstances of the case and allow for assessments of credibility. At the same time, they provide an important mechanism through which the petitioner can respond to the case and provide information that ultimately will be reflected in the report presented to the Committee.

Access to classified/confidential information

12. The challenges related to access to classified/confidential information remain pressing and significant. Importantly, since the issuance of the third report, the Office of the Ombudsperson has made additional arrangements for access to classified/confidential information with five States: Australia, France, Germany, Liechtenstein and Portugal. In addition, the Office has signed its first formal agreement with a State, namely Austria. Together with the existing arrangements (with Belgium, Costa Rica, New Zealand, Switzerland and the United Kingdom of Great Britain and Northern Ireland), this brings the total number of agreements or arrangements to 11. Also during the reporting period, the United States of America expressed willingness, and demonstrated an ability, to share confidential information on an ad hoc basis.

13. However, further progress on expanding the list — particularly to other States that are often implicated in the delisting petitions — is urgently needed. While efforts continue to be made to find practical solutions in the interim, lack of access to confidential/classified information has been a concern in at least four recent cases.

14. While the Ombudsperson has been pursuing this issue with a number of States, the current resource constraints have limited efforts in this regard.

III. Summary of activities: development of the Office of the Ombudsperson

General

15. Activities to further develop and strengthen the Office of the Ombudsperson were considerably constrained in the reporting period as a result of the increased caseload and the need to focus limited resources on the core functions of the Office. Nonetheless, efforts continued to be made in this respect to the extent possible.

Outreach and publicizing of the Office

16. The Ombudsperson described the work of her office at the European Union-United Nations seminar on sanctions held in New York from 28 to 30 March 2012. On 29 March, she gave a briefing on the same topic to interested States Members of

[8] In one case the petitioner declined to meet for an interview though questions were posed and answers provided through legal counsel. In another case, the information provided in the petition and through a written exchange of questions and answers was considered sufficient, such that an in-person interview was considered unnecessary.

the United Nations. She participated in a workshop entitled "The Security Council, sanctions and the rule of law" held on 31 May at the Permanent Mission of Australia to the United Nations. The workshop was part of a project on strengthening the rule of law through the Security Council, sponsored by the Australian Research Council in collaboration with the Australian Civil-Military Centre[9] and the Australian National University. The Ombudsperson also took part in a seminar on "Smart sanctions and the rule of law" held at New York University from 21 to 23 June. On 27 June, the Ombudsperson spoke at a dinner debate on the future of targeted sanctions at the Permanent Mission of Germany to the United Nations.

Interaction with the Security Council Committee pursuant to resolutions 1267 (1999) and 1989 (2011) concerning Al-Qaida and associated individuals and entities, and with the Monitoring Team

17. Since 21 January 2012, the Ombudsperson has appeared on seven occasions before the Security Council Committee pursuant to resolutions 1267 (1999) and 1989 (2011) concerning Al-Qaida and associated individuals: on 24 January 2012 to present the comprehensive report in the case of Fondation Secours Mondial (amended; formerly an alias of QE.G.91.02); on 1 March 2012 to present the comprehensive reports in the cases of Ibrahim Abdul Salam Mohamed Boyasseer (delisted; formerly QI.B.267.09) and Mondher ben Mohsen ben Ali al-Baazaoui (delisted; formerly QI.A.94.03); on 3 April 2012 to present the comprehensive reports in the cases of Kamal ben Mohamed ben Ahmed Darraji (delisted; formerly QI.D.174.04) and Sa'd Abdullah Hussein Al-Sharif (delisted; formerly QI.A.5.01); on 17 April 2012 to present the comprehensive report in the cases of Saad Rashed Mohammed al-Faqih (delisted; formerly QI.A.181.04) and Movement for Reform in Arabia (delisted; formerly QE.M.120.05), Fethi ben al-Rebei Absha Mnasri (delisted; formerly QI.M.102.03) and Mounir ben Habib ben al-Taher Jarraya (delisted; formerly QI.J.100.03); on 1 May 2012 to present additional information on a case while it was still under consideration; on 20 June 2012 to present the comprehensive reports in the cases of Rachid Fettar (delisted; formerly QI.F.97.03) and Chabaane ben Mohamed ben Mohamed al-Trabelsi (delisted; formerly QI.A.178.04); and on 3 July to present the comprehensive report in the case of Ali Mohamed el Heit (delisted; formerly QI.E.159.04). The Ombudsperson has also provided a number of written updates to the Committee in relation to various cases as they progress through each phase.

18. The Ombudsperson has met and communicated with the Coordinator and members of the Monitoring Team on numerous occasions. On an operational level there is ongoing communication with various experts in the Monitoring Team, as appropriate to particular cases. The Monitoring Team continues to provide the Ombudsperson with relevant information in individual cases in accordance with paragraph 3 of annex II to resolution 1989 (2011) and has on several occasions proposed questions for the petitioners. The Monitoring Team has also provided assistance with research and specific questions which have arisen in the consideration of particular delisting petitions.

[9] The Centre, formally designated Asia Pacific Civil-Military Centre of Excellence, is an entity of the Government of Australia.

Liaison with States, intergovernmental organizations, United Nations bodies and non-governmental organizations

19. The Ombudsperson has continued her interaction with States over the past six months, placing particular emphasis on States of relevance to the delisting petitions that have been presented. She also engaged with several State experts on counter-terrorism. On the question of agreements and arrangements to access classified/confidential information, the Ombudsperson had further discussions with several States and has continued to follow up on existing requests. The Ombudsperson also continued to meet with the informal group of like-minded States on targeted sanctions[10] and with representatives of the European Union. In addition, the Ombudsperson took advantage of operational trips in order to consult with relevant authorities in the capitals of various States.

20. Similarly, the Ombudsperson continued to liaise with representatives of the Counter-Terrorism Implementation Task Force and the Counter-Terrorism Committee Executive Directorate. She met on two occasions with Ben Emmerson, the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism, to discuss the work of her office. The Ombudsperson and Special Rapporteur continue to exchange information of relevance to both of their mandates.

21. To the extent possible given resource constraints, the Ombudsperson sustained efforts to build relationships and work with civil society and non-governmental organizations, particularly those active in the field of human rights and sanctions. To this end, the Ombudsperson interacted with academics, students and representatives of non-governmental organizations and civil society.

Procedures and research

22. The Ombudsperson continued to follow developments in relevant legal cases and to review press material and academic articles pertinent to the work of the office. She took available opportunities to discuss the broad range of issues related to the delisting process with judges of national, regional and international courts, as well as prosecutors and private lawyers, including representatives of the International Bar Association and the International Association of Prosecutors. The Ombudsperson also discussed general legal issues of relevance with counsel in the Office of Legal Affairs and with experts from, inter alia, the Counter-Terrorism Committee Executive Directorate and the Monitoring Team.

Website

23. The Ombudsperson continued to revise, develop and update the website of the Office (www.un.org/en/sc/ombudsperson/).

[10] Comprising Austria, Belgium, Costa Rica, Denmark, Germany, Finland, Liechtenstein, the Netherlands, Norway, Sweden and Switzerland.

IV. Other activities

Notifications of listing

24. In accordance with paragraph 16 (b) of annex II to resolution 1989 (2011), when an individual or entity is added to the list and relevant States have been notified, the Ombudsperson is to send a notification directly to that individual or entity if there is a known address.

25. In the six months since the issuance of the third report, 10 entries have been added to the Al-Qaida sanctions list. Each of those listings was considered with reference to the question of notification. With respect to six of the newly listed persons or entities, notification letters were sent to possible addresses based on available information in the list entry. In the four remaining cases, no address was available or the address information provided was insufficiently detailed for there to be any reasonable prospect of the notification reaching the addressee.

Miscellaneous matters

26. The Ombudsperson received various requests for information about the Security Council Committee pursuant to resolutions 1267 (1999) and 1989 (2011) and provided public material in response to such requests, as appropriate. This included assistance to States seeking information or clarifications, as well as requests made by individuals.

V. Future work

27. The priorities of the Ombudsperson remain consistent. The paramount activity will continue to be that related to the delisting requests. While it is difficult to anticipate the future caseload with any certainty, it is reasonable to assume that the Office of the Ombudsperson will receive approximately 10 requests in the next six-month period and that 10 cases will be active at the end of the next reporting period.

28. As mentioned above, the second matter of priority will continue to be the development of arrangements or agreements for access to classified/confidential information. Resources permitting, the Ombudsperson will continue to publicize the work of the Office and to conduct outreach and liaison activities.

VI. Observations and conclusions

29. The Office of the Ombudsperson has been operational for approximately two years. The revised procedure set out in resolution 1989 (2011) has been applicable for one year, with several cases having been decided in accordance with that procedure. On the basis of this experience it is now possible to better assess the effectiveness and fairness of the process and to highlight any challenges which remain.

Fair process achievements

30. In the cases completed to date, the Ombudsperson process has operated in conformity with the fundamental principles of fair process which it was designed to

address. The individual petitioners have been informed of the case against them through the combined effect of the information-gathering and dialogue phases. The information gathered by the Ombudsperson, subject to any confidentiality restrictions, has been presented to the petitioner. Each petitioner has also had an opportunity to respond to that case and be heard by the decision maker through the information imparted to the Ombudsperson in the dialogue phase and subsequently captured in the comprehensive report. In accordance with resolution 1989 (2011), the Ombudsperson and the Committee continue to assess each case on the information made available to the Ombudsperson, and that information also forms the basis for the recommendation of the Ombudsperson. In this reporting period, the Committee's decisions have once again been consistent with those recommendations and to date, no State has requested that a case be referred to the Security Council.

31. The experience with the individual delisting petitions in this reporting period has clearly demonstrated that the Ombudsperson procedure, as currently formulated by the Security Council, is a robust one with significant protections which enshrine the fundamental principles of fairness. Most notably, the detailed nature of the comprehensive report, in combination with the requirement for a consensus decision to overturn a recommendation by the Ombudsperson, has proven to be an essential safeguard for those principles. It ensures that, during the deliberation phase, the focus remains on the underlying information in the case and the reasons for the decision which the Committee will ultimately take.

32. In sum, through the Ombudsperson process so far, each petitioner has been informed and had an opportunity to be heard; the underlying information has been reviewed and assessed by an objective third party culminating in a recommendation; and the decision taken has been premised on the information gathered and the case as disclosed to the petitioner.

Cooperation of States

33. State cooperation remains very strong. However, some of the problems previously identified continue to impede the process. In particular, in the period under review there has been a slight increase in cases of non-response from States, although none has involved a State of residence or designating State. Nonetheless, the absence of responses from some States is a matter of concern.

34. Access to detailed information with sufficient particularity remains a serious problem, to the detriment of the effectiveness of the process in many respects. Notably, the test applied in the Ombudsperson process is whether there is sufficient information to provide a reasonable and credible basis for the listing. In the absence of particulars, it is difficult to assess the sufficiency and reasonableness of the information or even in some instances to accord any weight to it. Also, specificity and detail are key indicia of credibility and are of particular importance in this context given that the original sources of the information, in many instances, cannot be disclosed. The absence of detail also impairs the ability of the Ombudsperson to have a frank dialogue with the petitioner and to properly assess the responses and information provided. It remains the case that many of the challenges faced in this respect relate to the question of classified/confidential material, again highlighting the importance of reaching agreements with States on access to such material. In addition, some States have demonstrated reluctance to respond to specific questions

posed or to give access to their operational agencies even when the issue of confidentiality does not arise.

35. The most significant problem, however, which has become more acute in this reporting period, is the timeliness of the responses provided by States, including the key States in individual cases. On several occasions, responses have been submitted well into the dialogue phase and, in some instances, even after the initial two-month deadline for that phase has expired.

36. The effectiveness of the detailed process elaborated by the Security Council in annex II to resolution 1989 (2011) is heavily dependent on the timelines applicable to the various stages of the procedure. Furthermore, experience has demonstrated very clearly that the deadlines fixed by the Security Council — applicable to States, the Ombudsperson and the Committee — are fundamental to the overall fairness of the process. This is especially the case with the periods prescribed for the submission of information by States. Key principles of fairness dictate that the petitioner be informed of the case against him or her and have an opportunity to respond to the same and be heard by the decision maker. When information is submitted outside of the prescribed information-gathering period, it is prejudicial to the petitioner in that the time period for disclosing and discussing the information and for the preparation of a response to it is shortened, sometimes considerably. It also makes it difficult to ensure that the information is properly reflected and analysed in the comprehensive report. Finally, if it is provided at a very late stage, especially after the preparation of the comprehensive report, it has the potential to vitiate the fairness of the overall process. For all these reasons, and given that the period for information-gathering has been extended and is now quite lengthy, it is important that States meet the deadlines for information-gathering set by the Security Council.

37. Given the critical importance of timely cooperation by States, it would be helpful if consideration were given to further emphasizing the importance of State compliance with information-gathering requirements within the established deadlines.

Transparency of the process

38. In resolution 1989 (2011), the Security Council set out in detail the process by which requests for delisting are to be considered by the Committee with the assistance of the Ombudsperson. This includes clear timelines and a delineation of the three means by which the ultimate decision with respect to any delisting petition will be taken: by the Committee in accordance with the recommendation of the Ombudsperson, through a consensus decision contrary to the recommendation, or by a Security Council vote. In so doing, the Security Council significantly enhanced the fairness of the process by allowing for a transparent procedure whose component steps and their timing are apparent to the petitioners and to the public.

39. The Ombudsperson further contributes to transparency by disclosing information as far as possible[11] and advising the petitioner and interested States as

[11] The Ombudsperson will disclose the information gathered in the case to the petitioner except for any material subject to confidentiality constraints. The Ombudsperson will also generally disclose the description of the petitioner's case which is to be incorporated into the comprehensive report to ensure that the petitioner is satisfied with it.

to the progress of the delisting petition at each stage up to the consideration of the comprehensive report by the Committee. However, under the current mandate the Ombudsperson is constrained in terms of the information which can be disclosed to the petitioner, to an interested State that is not a member of the Committee or to the public. Most notably, the comprehensive report is confidential to the Committee, and this includes even the recommendation made by the Ombudsperson in the report. Moreover, resolution 1989 (2011) provides no basis for the Ombudsperson to update the petitioner and relevant States about the progress of the case once it reaches the Committee for consideration and decision, other than with respect to her own activities.[12] Similarly, once a decision has been taken on a petition, it is not clear whether the Ombudsperson can make any public disclosure as to which of the three options was employed in reaching that conclusion.

40. A case can certainly be made for more open access to the comprehensive reports of the Ombudsperson or portions thereof. The Monitoring Team, for example, has recommended more transparency for these reports and has advanced a well-grounded argument in support of its recommendation.[13] However, the most pressing issue at the moment relates specifically to the inability of the Ombudsperson to disclose the recommendation made, and the next steps taken in the specific case, to the petitioner and to an interested State that is not a Committee member. Further, the absence of full public transparency as to how the options in the resolution are being applied in specific cases is equally problematic.

41. These constraints unnecessarily impair the transparency of the Ombudsperson and Committee processes and detract from their credibility and fairness. Further, the underlying rationale for these restrictions is not clear, as they do not relate to the sensitive issue of information provided or positions taken by individual States on the request. Moreover, confidentiality is somewhat misplaced in this context given that the timelines applicable in accordance with resolution 1989 (2011) will be apparent to the petitioner, interested States and even the general public, for the most part.[14] In most instances, individuals and States will be able to deduce what the recommendation was, whether the "trigger mechanism" applied or a consensus decision to overturn was reached or if the matter was referred to the Security Council, simply as a result of the time it takes for the decision.

42. The decision ultimately taken by the Committee or the Security Council with respect to a delisting petition directly affects the rights of the petitioner. It is essential for fairness that he or she be made aware of the particulars of the process in his or her case as it progresses. Similarly, a designating State or State of residence which is not a member of the Committee but has a direct interest in the outcome should have access to the same information and within the same time frame. And for the overall transparency, credibility and fairness of the process, the manner in which the decision was taken in an individual case should be publicly disclosed at the end of the process. Consistent with the important steps taken by the Security Council to make clear the applicable procedure for delisting petitions generally, it would seem

[12] The Ombudsperson does advise petitioners and relevant States when she is to appear before the Committee to present a comprehensive report.

[13] See, for example, S/2011/245, para. 38.

[14] It will not be evident when the 30-day time period for consideration will begin since it will not be generally known when translations are delivered.

reasonable to remove any secrecy as to how that process is applied in individual cases.

43. For all of these reasons, it would be useful if consideration were given to empowering the Ombudsperson to disclose the recommendation made in the comprehensive report to the petitioner and interested States which are not members of the Committee, once the Committee has concluded its consideration of the case. The Ombudsperson should also be mandated to keep the petitioner and States informed of the steps taken subsequently, including the timing of the circulation of the request under the Committee's no-objection procedure[15] and the particular method by which the decision is ultimately made. Further, at the conclusion of the case, the Ombudsperson should be permitted to publicly identify in each individual case whether the decision to retain or delist was based on the recommendation of the Ombudsperson, a consensus decision by the Committee to retain the listing or a Security Council referral and vote.

Reasons for decision

44. The importance of the Committee providing reasons for the decisions taken cannot be overstated. Such reasons demonstrate the fair and considered nature of the decision-making process and provide guidance to the Ombudsperson for subsequent delisting cases. Moreover, as these reasons are communicated to the petitioner, he or she is made aware of the basis of the decision and thus the transparency of the proceedings is considerably enhanced. This principle has been recognized in resolution 1989 (2011) insofar as it requires that the Committee provide reasons for rejecting a delisting petition.[16] In practice the Committee has also made efforts to provide reasons for its decision when delisting is granted, although a significant period of time can elapse between the decision and the provision of the reasons. Given this existing practice and the importance of reasons to the overall fairness of the process, it would be helpful if consideration were given to extending the current obligation and providing that the Committee give reasons in a timely manner for its decision in all cases.

Non-disclosure of the identity of designating States

45. As indicated in the third report, paragraph 29 of resolution 1989 (2011), by which the Security Council strongly urges relevant States to consent to the disclosure of their identity as designating States, has brought about some positive changes. However, it remains both difficult and time-consuming to meet the requirement that consent be sought.[17] Therefore, it would be useful if the issue of disclosure of the identity of designating States could be reconsidered with a view to allowing for such information to be provided where necessary to the fairness of the process, without the requirement of obtaining the consent of the relevant States.

[15] The fact that the request will be circulated under the no-objection procedure in the case of a recommendation for delisting is publicly known by virtue of paragraph 7 (ee) of the guidelines of the Committee for the conduct of its work, found at www.un.org/sc/committees/1267/pdf/1267_guidelines.pdf.

[16] Paragraph 13 of annex II. A similar requirement is in paragraph 33, in the case of a Committee member objecting to delisting.

[17] See S/2012/49, paras. 48 and 49.

Mandate for follow-up to delisting/facilitating requests for exemptions

46. Practice has once again clearly highlighted the importance of empowering the Office of the Ombudsperson to follow up on cases of delisted persons or entities who continue to face restrictions with respect to the movement of or access to funds or in relation to travel. In several cases in this reporting period, individuals delisted by the Committee through the Ombudsperson process have reverted to the Ombudsperson subsequently with claims of continued application of sanctions measures after the delisting. To date, it has been possible to address and respond to such concerns only on the basis of purely informal discussions with States. The implications in terms of fairness for individuals and entities facing such unjustified restrictions are obvious. A far more effective response to such situations would be possible if the Ombudsperson were specifically mandated to follow up on these cases with relevant States or otherwise, as might be necessary.

47. Even more pressing is the question of the access of individuals and entities to the exemptions that the Security Council has prescribed in the context of the sanction measures.[18] During the reporting period, some petitioners have sought assistance from the Ombudsperson in seeking exemptions from the Committee; however, such assistance is not possible under the existing mandate. As was the case historically with delisting requests, there is no recourse available for an individual or entity to pursue such an exemption from the Committee, other than through a State. The practical effect is that many individuals, particularly those located in States with limited resources or unfamiliar with the Committee process, have no access to the humanitarian exemptions since they are unable to present their claims to the Committee for consideration.

48. For these reasons, and those expressed in previous reports,[19] it would be helpful if consideration were given to mandating the Office of the Ombudsperson to follow up on claims of continued application of sanctions measures despite delisting and to directly transmit exemption requests from individuals and entities to the Committee for its consideration.

49. During the period under review, one additional issue has arisen with respect to requests for exemptions. In two instances, consideration had to be given to conducting the petitioner interview in a location other than the State of residence, either because of logistical challenges[20] or security concerns. In such instances, it would significantly facilitate the process if the Ombudsperson were able to make a request to the Committee for the travel exemption without the need for a State to present it. While of course the relevant States would still need to provide consent and the ultimate decision on the waiver would be solely for the Committee, considerable time and effort could be saved if the request could be made directly by the Ombudsperson. Therefore, it would be useful if consideration were given to allowing the Ombudsperson to present a request for a travel exemption in order to facilitate the dialogue phase of the process.

[18] See paragraph 1 of resolution 1452 (2002) and paragraph 1 (b) of resolution 1989 (2011).

[19] See S/2012/49, paras. 50-52, and S/2011/447, paras. 47-49.

[20] In one case the substantial documentation of relevance to the case and needed for the interview was not easily accessible in the State of residence.

Translation/administrative issues

50. As discussed in the third report (see S/2012/49, paras. 53-57), the general guidelines concerning word limits for translation, applicable to parliamentary documents in the United Nations system, are being applied to the comprehensive reports of the Ombudsperson. As a matter of principle, this limitation infringes on the independence of the Ombudsperson. The problem is further exacerbated by the fact that translation is a prerequisite for consideration of the comprehensive reports by the Committee, and thus these word limits impose a very real restriction on the content of the reports. Given that the comprehensive reports are fundamental to the fairness of the Ombudsperson process, this raises a serious concern. While efforts are made to limit the length of the comprehensive reports as much as possible, in some instances the underlying material and case issues are such that this is not feasible.

51. As previously noted (see S/2012/49, para. 54), resolution 1989 (2011) mandates that the 30-day time period for the Committee's consideration of the delisting request commences 15 days after the comprehensive report has been submitted to the Committee in all official languages of the United Nations. While this 30-day time constraint contributes significantly to the expeditiousness and fairness of the process, significant delays are still possible in the decision-making phase owing to the difficulties of obtaining translations in a timely manner. In addition, in terms of the transparency of the process, this formulation means that it is not clear even to the petitioner when the 30-day period for consideration of the report by the Committee begins. Given the strict and clear deadlines applicable to all other components of the process and with respect to the participants — petitioner, Ombudsperson, States and the Committee — this uncertainty, and the potential for lengthy delays arising from circumstances outside the control of the Committee, is a regrettable obstacle to the overall fairness and efficacy of the procedure.

52. At the same time, as reflected in resolution 1989 (2011), it is evident that translation of the comprehensive reports into all of the official languages is an important component of fair process to ensure that States have an opportunity to fully and properly review the material. However, in some circumstances, the balancing of the competing interests involved may require the prioritization of some parts of the reports for immediate translation or some other similar measures to ensure that a case can still be considered by the Committee on a timely basis. For this reason, it would be useful if control over these issues rested solely with the Committee, the body best placed to make determinations on these questions. To that end, without altering the important 30-day time limit, it would be helpful if consideration were given to amending annex II so as to give the Committee the flexibility to determine when the requirements for translation have been met sufficiently to allow for consideration of the delisting petition and the comprehensive report by the Committee.

Resources

53. Resource needs identified in the previous reports of the Ombudsperson, and recognized by the Security Council in paragraph 24 of resolution 1989 (2011), have been partially addressed. In line with the request of the Secretary-General, the General Assembly has approved the establishment of two dedicated positions to

strengthen the Office of the Ombudsperson: a professional officer (P-4) and an administrative assistant. The administrative assistant position has been filled. While the competition process for the staffing of the P-4 post is ongoing, absent unexpected developments, it should be completed shortly. This is of critical importance since, without the deployment of this additional resource, it will not be possible for the Ombudsperson to continue to fully meet the mandate accorded to her by the Security Council.

54. The issue of funds for translation of material received from or to be transmitted to petitioners, or material submitted by States, which is not in one of the six official languages of the United Nations remains a pressing problem. There have been several instances in this reporting period where material for transmission to or sent by a petitioner, or critical to a proper understanding of the case, has required translation.

55. A related problem has arisen because of the need for interpretation in the course of the dialogue phase. As discussed previously, the Security Council encourages the Ombudsperson to meet with petitioners to the extent possible. In the current reporting period, six interviews have been conducted with petitioners and this "face-to-face" process has proven to be extremely helpful to the petitioner and important for the comprehensiveness of the report. Members of the Committee continue to comment on the necessity for such interviews. However, the interviews can only be effective if conducted in a language understood by the petitioner, which in several instances meant that interpretation assistance was needed.

56. To date, no specific funds have been sought or allocated for either of these purposes, creating significant challenges to the effective implementation of the Ombudsperson process.[21] While informal solutions have been found to address the problem on a case-by-case basis, this approach is not sustainable in the long term. Efforts are being made to secure funding for translation/interpretation for the next budget cycle. Absent such resources, there is a danger that the overall fairness and efficacy of the process will be negatively affected.

Conclusion

57. In summary, despite the resource constraints and the specific challenges outlined above, during this reporting period the Office of the Ombudsperson has continued to fulfil the mandate accorded to it. State cooperation remains strong and efforts are ongoing to overcome some of the most difficult problems, including the question of access to confidential/classified information. Most significantly, listed persons and entities are making use of the mechanism established by the Security Council by presenting delisting petitions. These petitions are being addressed through the Ombudsperson process and completed within the prescribed time frames, in accordance with the fundamental principles of fair process as detailed above.

[21] In the third report there was reference to funds having been allocated for this purpose in the 2012 budget, but this was subsequently determined to be incorrect information.

Annex

Status of cases

Case 1, one individual (Status: denied)

Date	*Description*
28 July 2010	Transmission of case 1 to the Security Council Committee established pursuant to resolutions 1267 (1999) and 1989 (2011) concerning Al-Qaida and associated individuals and entities
28 February 2011	Comprehensive report submitted to the Committee
10 May 2011	Presentation of the comprehensive report by the Ombudsperson to the Committee
14 June 2011	Committee decision
1 September 2011	Formal notification to petitioner setting out reasons

Case 2, Safet Ekrem Durguti (Status: delisted)

Date	*Description*
30 September 2010	Transmission of case 2 to the Committee
26 April 2011	Comprehensive report submitted to the Committee
31 May 2011	Presentation of the comprehensive report by the Ombudsperson to the Committee
14 June 2011	Committee decision to delist
12 August 2011	Formal notification to petitioner setting out reasons

Case 3, one entity (Status: delisting request withdrawn by petitioner)

Date	*Description*
3 November 2010	Transmission of case 3 to the Committee
14 June 2011	Comprehensive report submitted to the Committee
26 July 2011	Presentation of the comprehensive report by the Ombudsperson to the Committee
2 August 2011	Withdrawal of petition

Case 4, Shafiq ben Mohamed ben Mohamed al-Ayadi (Status: delisted)

Date	*Description*
6 December 2010	Transmission of case 4 to the Committee
29 June 2011	Comprehensive report submitted to the Committee
26 July 2011	Presentation of the comprehensive report by the Ombudsperson to the Committee
17 October 2011	Committee decision to delist
8 November 2011	Formal notification to petitioner setting out reasons

Case 5, Tarek ben al-Bechir ben Amara al-Charaabi (Status: delisted)

Date	*Description*
30 December 2010	Transmission of case 5 to the Committee
26 April 2011	Comprehensive report submitted to the Committee
31 May 2011	Presentation of the comprehensive report by the Ombudsperson to the Committee
14 June 2011	Committee decision to delist
12 August 2011	Formal notification to petitioner setting out reasons

Case 6, Abdul Latif Saleh (Status: delisted)

Date	*Description*
14 January 2011	Transmission of case 6 to the Committee
17 June 2011	Comprehensive report submitted to the Committee
26 July 2011	Presentation of the comprehensive report by the Ombudsperson to the Committee
19 August 2011	Committee decision to delist
8 November 2011	Formal notification to petitioner setting out reasons

Case 7, Abu Sufian al-Salamabi Muhammed Ahmed Abd al-Razziq (Abousfian Abdelrazik) (Status: delisted)

Date	*Description*
28 January 2011	Transmission of case 7 to the Committee
23 September 2011	Comprehensive report submitted to the Committee
15 November 2011	Presentation of the comprehensive report by the Ombudsperson to the Committee
30 November 2011	Committee decision to delist
13 February 2012	Formal notification to petitioner setting out reasons

Case 8, Ahmed Ali Nur Jim'ale and 23 entities[a] (Status: delisted)

Date	*Description*
17 March 2011	Transmission of case 8 to the Committee
23 September 2011	Comprehensive report submitted to the Committee
13 December 2011	Presentation of the comprehensive report by the Ombudsperson to the Committee
27 December 2011	Committee decision to delist six entities
21 February 2012	Committee decision to delist one individual and 17 entities
8 June 2012	Formal notification to petitioner setting out reasons

[a] Barakaat North America, Inc., Barakat Computer Consulting, Barakat Consulting Group, Barakat Global Telephone Company, Barakat Post Express, Barakat Refreshment Company, Al Baraka Exchange, LLC, Barakaat Telecommunications Co. Somalia, Ltd., Barakaat Bank of Somalia, Barako Trading Company, LLC, Al-Barakaat, Al-Barakaat Bank, Al-Barakaat Bank of Somalia, Al-Barakat Finance Group, Al-Barakat Financial Holding Co., Al-Barakat Global Telecommunications, Al-Barakat Group of Companies Somalia Limited, Al-Barakat International, Al-Barakat Investments, Barakaat Group of Companies, Barakaat Red Sea Telecommunications, Barakat International Companies and Barakat Telecommunications Company Limited.

Case 9, Saad Rashed Mohammed al-Faqih and Movement for Reform in Arabia (Status: delisted)

Date	*Description*
19 April 2011	Transmission of case 9 to the Committee
21 February 2012	Comprehensive report submitted to the Committee
17 April 2012	Presentation of the comprehensive report by the Ombudsperson to the Committee
1 July 2012	Committee decision to delist

Case 10, Ibrahim Abdul Salam Mohamed Boyasseer (Status: delisted)

Date	*Description*
6 May 2011	Transmission of case 10 to the Committee
9 January 2012	Comprehensive report submitted to the Committee
1 March 2012	Presentation of the comprehensive report by the Ombudsperson to the Committee
8 May 2012	Committee decision to delist

Case 11, Mondher ben Mohsen ben Ali al-Baazaoui (Status: delisted)

Date	*Description*
1 June 2011	Transmission of case 11 to the Committee
19 January 2012	Comprehensive report submitted to the Committee
1 March 2012	Presentation of the comprehensive report by the Ombudsperson to the Committee
30 March 2012	Committee decision to delist
10 July 2012	Formal notification to petitioner setting out reasons

Case 12, Kamal ben Mohamed ben Ahmed Darraji (Status: delisted)

Date	*Description*
30 June 2011	Transmission of case 12 to the Committee
28 February 2012	Comprehensive report submitted to the Committee
3 April 2012	Presentation of the comprehensive report by the Ombudsperson to the Committee
4 May 2012	Committee decision to delist

Case 13, Fondation Secours Mondial (Status: amended[b])

Date	*Description*
7 July 2011	Transmission of case 13 to the Committee
14 December 2011	Comprehensive report submitted to the Committee
24 January 2012	Presentation of the comprehensive report by the Ombudsperson to the Committee
17 February 2012	Committee decision to amend
9 July 2012	Formal notification to petitioner setting out reasons

Case 14, Sa'd Abdullah Hussein al-Sharif (Status: delisted)

Date	*Description*
20 July 2011	Transmission of case 14 to the Committee
29 February 2012	Comprehensive report submitted to the Committee
3 April 2012	Presentation of the comprehensive report by the Ombudsperson to the Committee
27 April 2012	Committee decision to delist
5 June 2012	Formal notification to petitioner setting out reasons

Case 15, Fethi ben al-Rebei Absha Mnasri (Status: delisted)

Date	*Description*
4 August 2011	Transmission of case 15 to the Committee
9 March 2012	Comprehensive report submitted to the Committee
17 April 2012	Presentation of the comprehensive report by the Ombudsperson to the Committee
2 May 2012	Committee decision to delist

[b] Amended to be remove Fondation Secours Mondial as an alias of Global Relief Foundation (QE.G.91.02).

Case 16, Mounir ben Habib ben al-Taher Jarraya (Status: delisted)

Date	*Description*
15 August 2011	Transmission of case 16 to the Committee
9 March 2012	Comprehensive report submitted to the Committee
17 April 2012	Presentation of the comprehensive report by the Ombudsperson to the Committee
2 May 2012	Committee decision to delist

Case 17, Rachid Fettar (Status: delisted)

Date	*Description*
26 September 2011	Transmission of case 17 to the Committee
27 April 2012	Comprehensive report submitted to the Committee
5 June 2012	Presentation of the comprehensive report by the Ombudsperson to the Committee
20 June 2012	Committee decision to delist

Case 18, Ali Mohamed el Heit (Status: delisted)

Date	*Description*
5 October 2011	Transmission of case 18 to the Committee
2 May 2012	Comprehensive report submitted to the Committee
3 July 2012	Presentation of the comprehensive report by the Ombudsperson to the Committee
19 July 2012	Committee decision to delist

Case 19, one individual (Status: Committee phase)

Date	*Description*
16 November 2011	Transmission of case 19 to the Committee
11 July 2012	Comprehensive report submitted to the Committee

Case 20, Chabaane ben Mohamed ben Mohamed al-Trabelsi (Status: delisted)

Date	*Description*
21 November 2011	Transmission of case 20 to the Committee
23 April 2012	Comprehensive report submitted to the Committee
5 June 2012	Presentation of the comprehensive report by the Ombudsperson to the Committee
20 June 2012	Committee decision to delist

Case 21, one individual (Status: dialogue phase)

Date	*Description*
3 January 2012	Transmission of case 21 to the Committee
18 September 2012	Deadline for the completion of the extended dialogue phase

Case 22, one individual (Status: dialogue phase)

Date	*Description*
6 February 2012	Transmission of case 22 to the Committee
6 August 2012	Deadline for the completion of the dialogue phase

Case 23, one individual (Status: dialogue phase)

Date	*Description*
23 February 2012	Transmission of case 23 to the Committee
27 August 2012	Deadline for the completion of the dialogue phase

Case 24, one individual (Status: dialogue phase)

Date	*Description*
28 February 2012	Transmission of case 24 to the Committee
12 September 2012	Deadline for the completion of the dialogue phase

Case 25, one individual (Status: dialogue phase)

Date	*Description*
28 February 2012	Transmission of case 25 to the Committee
29 August 2012	Deadline for the completion of the dialogue phase

Case 26, one individual (Status: information-gathering phase)

Date	*Description*
23 April 2012	Transmission of case 26 to the Committee
23 August 2012	Deadline for the completion of the information-gathering phase

Case 27, one individual (Status: information-gathering phase)

Date	*Description*
7 May 2012	Transmission of case 27 to the Committee
7 September 2012	Deadline for the completion of the information-gathering phase

Case 28, one individual (Status: information-gathering phase)

Date	*Description*
7 June 2012	Transmission of case 28 to the Committee
8 October 2012	Deadline for the completion of the information-gathering phase

Case 29, one individual (Status: information-gathering phase)

Date	*Description*
25 July 2012	Transmission of case 29 to the Committee
26 November 2012	Deadline for the completion of the information-gathering phase

Case 30, one entity (Status: information-gathering phase)

Date	*Description*
25 July 2012	Transmission of case 30 to the Committee
26 November 2012	Deadline for the completion of the information-gathering phase

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Letter dated 26 July 2012 from the Permanent Representative of the Sudan to the United Nations addressed to the President of the Security Council

With reference to my letter dated 25 May 2012 (S/2012/366) and my letter dated 4 June 2012 (S/2012/393), pertaining to the map issued by the Chair of the African Union High-level Implementation Panel, Thabo Mbeki, I have further the honour to illustrate that the position of the Government of the Sudan on the aforementioned map is as follows:

> The whole map of the African Union High-level Implementation Panel is accepted with one exception in the international border-line, and that is the portion regarding the area of 14 miles south of Bahr el Arab.

We thought it useful to clarify this point for all the members of the Security Council to avoid qualifying the position of the Government of the Sudan on the said map as total rejection of the map.

I have further the honour to annex documentation including all our justifications regarding our position pertaining to the area known as 14 miles south of Bahr el Arab (see annex).

While conveying this information, I would highly appreciate if the present letter and its annex would be circulated as documents of the Security Council.

(*Signed*) Daffa-Alla Elhag Ali **Osman**
Permanent Representative

12-45284 (E) 220812

Please recycle

Annex to the letter dated 26 July 2012 from the Permanent Representative of the Sudan to the United Nations addressed to the President of the Security Council

Sudan's position on the centre line maps of the African Union High-level Implementation Panel for a safe demilitarized border zone between the Sudan and South Sudan

Background

- The Sudan and South Sudan, on 29 June 2011, signed the "Agreement on Border Security and Joint Political and Security Mechanism", which stipulated at that time that the 1 January 1956 Administrative Border would be the internationally recognized border between the two countries.
- The Agreement on Border Monitoring Support Force was signed by the two countries on 30 July of the same year.
- The first meeting to mark the start of implementation of the two Agreements took place in Khartoum on 18 September 2011. The South Sudan delegation refused to endorse the 1 January 1956 Administrative Map delineating the border between the two countries as the basis for establishing the agreed-upon safe demilitarized border zone (SDBZ).
- President Thabo Mbeki, Chair of the African Union High-level Implementation Panel, delivered to the Sudan, on 14 November 2011, a border delineation map proposal that could be used as the basis for the safe demilitarized border zone.
- On 17 November 2011, the Sudan expressed, via official correspondence signed by the Minister of the Presidency, its refusal of the African Union High-level Implementation Panel AUHIP proposal (see enclosure 1).
- The Sudan again reiterated on 2 June 2012 its rejection of the border map proposed by the African Union High-level Implementation Panel in an aide-memoire, in reply to the explanatory aide-memoire received from the African Union High-level Implementation Panel (see enclosure 2).
- An exchange of correspondence followed, between the Sudan and the African Union High-level Implementation Panel, further confirming the Sudan's rejection of the border delineation map proposed by the African Union High-level Implementation Panel (see enclosures 3 and 4).

Sudan's justifications for rejecting the border delineation map proposed by the African Union High-level Implementation Panel

1. Prior to the referendum on self-determination of South Sudan, the Government of the Sudan called, well in advance, for the demarcation of the border between the two countries, to avoid contention in the eventuality of separation. The Sudan People's Liberation Movement (SPLM), with the backing of some parts of the international community, insisted that the referendum take place on the designated date, and deferred all outstanding issues, including that of border demarcation, to be resolved at a later date. The result of this intransigence is now a matter of common knowledge. It is regrettable to repeat this same scenario by insisting on establishing the safe demilitarized border zone upon the map proposed by the African Union

High-level Implementation Panel, with the full cognizance that this proposed map is not based upon any prior established historical reference or maps, which would be the only two means acknowledged internationally. The consequences of this mistake will be very serious indeed.

2. The 14 mile region south of Bahr el Arab, an area which lies well within the 1 January 1956 border inside the Sudan, is an important grazing area for the Rizeigat tribes during the summer months, and the waters of the Bahr el Arab River are a vital resource for the tribes of South Kordofan. Within this context, the annexation of this area to South Sudan violates recognized principles of international boundaries regarding the succession of states (uti possidetis juris), which will threaten the social fabric in the region and result in tribal warfare, as is the case presently in the Abyei region.

3. It is untenable to maintain that the map proposed by the African Union High-level Implementation Panel encompasses the safe demilitarized border zone only, and that it will in no way affect the final outcome. The Sudan categorically refutes this claim, as it has become abundantly clear that the Government of South Sudan insists on referring all border disputes to international arbitration upon the expiry of the United Nations resolution deadline (in less than 20 days). It is obvious that if the Sudan were to accept the proposed map, this would weaken its position in the eventuality of recourse to international arbitration, which is, clearly, the intention of the Government of South Sudan.

4. The map proposed by the African Union High-level Implementation Panel could have served the stated purpose of delineating only the safe demilitarized border zone, and would have been acceptable, had the track record of the Government of South Sudan demonstrated reason, wisdom and logic in its attitude towards the Sudan. However, the issuance by South Sudan in March 2012 of its own version of the border between the two countries in a map based upon no precedent, historical or otherwise, further reiterates this negative attitude. Another example cited, in this regard, is the declaration of 9 July by the Governor of western Bahr el Ghazal State that his country would never cede a single inch of disputed territories to the Sudan.

5. Of particular concern to the Sudan is the justification put forth by the secretariat of the African Union High-level Implementation Panel regarding their proposed map, which is that the 14 mile region south of Bahr el Arab, an area which lies well within the 1 January 1956 border inside the Sudan, was forcibly occupied by South Sudan, thus establishing what they referred to, in a minuted meeting in Addis Ababa, as "a status quo reality". This was the logic the African Union High-level Implementation Panel used to include the 14 mile region south of Bahr el Arab within South Sudan in the proposed border map, a reasoning which is to be rejected, and cannot emanate from a body observing international law. This precedent could open the door to further seizure of the Sudan's territory illegally occupied by South Sudan, and possible future illegal invasion of new territories inside the Sudan's sovereign borders. The occupation by South Sudan of parts of the Sudan is de facto proof that an invasion of the Sudan took place; invasion itself being an internationally acknowledged act of aggression against a sovereign State, rejected and denounced by international law and in the Charter of the United Nations, the raison d'être of which is the absolute prohibition of aggression.

6. The flawed map proposed by the unqualified, to say the least, secretariat of the African Union High-level Implementation Panel, violates all known maps from 1924 to date, and must be rejected also for the following technical reasons:

- The Bahr el Arab River does not feature in this map, despite being a prominent natural feature that clearly defines the area.
- The date and place of issue of the map in question are unstated.
- The coordinates in the map are absent.
- There is no mention of the official authorizing body of the map.
- The two concerned parties were not involved in the technical preparation of the map.
- The authority that prepared the map is not specified.
- The reference maps used in the preparation of the boundary line in the proposed map were not specified.
- There is no mention of any of the reservations anywhere on the boundary drawn in the map.

The way forward

1. The African Union High-level Implementation Panel should admit and rectify the error, with the full backing of the international community, in the interest of sustainable peace between the two parties, and not push the Sudan to accept a defective map devoid of historical evidence or reference.

2. Endorsing the 1 January 1956 border between the two countries, as stipulated in the safe demilitarized border zone agreement signed between them on 29 June 2011 (para. 2), and the Agreement of 30 July 2011 (para. 3), based upon the following grounds:

- The 1 January 1956 border was agreed to by the two parties in the final report of the joint technical ad hoc boundary committee (28 January 2010).
- This agreed-upon map was itself the basis upon which the Sudan recognized the Republic of South Sudan on 8 July 2011 (see enclosure 5), and was used to establish the authority of the Government of South Sudan since 2005. It was also used for the purpose of implementing the presidential and legislative elections, and the referendum on self-determination for South Sudan. This map has been the reference in all the operations of the United Nations in Sudan, and was used by the United Nations Mission in Sudan (UNMIS), the United Nations Mission in South Sudan (UNMISS), and the African Union-United Nations Hybrid Operation in Darfur (UNAMID) (see enclosure 6).
- Endorsing and implementing the 1 January 1956 agreed-upon, historically established, and internationally recognized border map (see enclosure 7), will bolster peace and security between the two countries, and remove future misunderstandings or tensions that could further erode relations between the Sudan and South Sudan.

Enclosure 1

Letter dated 17 November 2011 from the Minister of the Presidency of the Sudan addressed to the Chair of the African Union High-level Implementation Panel

We would like to thank you for your continuing efforts to enhance the Joint Political and Security Mechanism (JPSM) in carrying out its mandate. We therefore acknowledge receipt of your map entitled "The centre line of the temporary safe demilitarized border zone between the Republic of the Sudan and the Republic of South Sudan portraying a 10 km buffer zone".

After having carefully examined the map you have submitted, we would like to make the following remarks:

1. We are quite astonished to note that the fifth contested area, brought forward by the Joint Political Committee (the area known as the 14 miles south of Bahr el Arab) is shown on the map provided as belonging to the Republic of South Sudan.

2. We reaffirm the basic principle that the agreed border-line is that of 1 January 1956 between Northern and Southern states as clearly stated in the Comprehensive Peace Agreement (CPA) signed on 9 January 2005, and later reconfirmed by the Declaration of Recognition of the Republic of South Sudan (see enclosure 5) and by the 29 June 2011 and 30 July 2011 agreements in Addis Ababa.

3. The Ceasefire Joint Military Committee (CJMC), chaired by the force commander of UNMIS, which had emanated from the Comprehensive Peace Agreement (CPA) under the political leadership of the Ceasefire Political Commission (CPC), had collectively recognized the basic principle already mentioned in paragraph (2) of the present letter. Consequently the Ceasefire Joint Military Committee worked through the six-year interim period according to that principle; in other words, the recognized boundary line is the line, as it stands, when the two parties to the Comprehensive Peace Agreement signed on 9 January 2005, including the area extending 14 miles south of Bahr el Arab.

We remain confident that you will give due attention to our remarks mentioned above for further consideration of the border-line shown in the map you have submitted to us.

(*Signed*) First Ltd. Gen. (RTD)
Bakri Hassan **Salih**
Minister of the Presidency

Enclosure 2

Response dated 2 June 2012 of the Government of the Sudan to the explanatory note on the centre line map for the safe demilitarized border zone of 1 June 2012

1. Immediately upon receipt of the administrative and security map produced by the African Union High-level Implementation Panel, the Government of the Sudan submitted, on its part, the map based on the 1 January 1956 border criteria to the African Union High-level Implementation Panel, which included the agreed and disputed areas in the border-line with signatures duly entered by the representatives of the two parties (the Government of the Sudan and the Government of South Sudan). The Government of the Sudan would like to recall that the explanatory note (see attached) failed to mention article 7 of the communiqué from the Peace and Security Council of the African Union on the inviolability of the borders, which defined the borders between the two countries as that "existing at the time of Sudan's independence on 1 January 1956, taking into account the disputed areas as agreed in the declaration of the Technical Ad Hoc Boundary Committee". This clear reference to the 1 January 1956 border's criterion, which was based on the Comprehensive Peace Agreement (CPA), was the main legal basis for both the referendum and the recognition text by the Republic of the Sudan regarding the Republic of South Sudan (see enclosure 5). This criterion was also the basis for the monitoring of the ceasefire by the United Nations Mission in the Sudan (UNMIS) during the interim period.

2. The map also contradicts the communiqué of the Peace and Security Council of 24 April 2012 (para. 12 (b)), and Security Council resolution 2046 (2012), both of which make reference to the 30 July 2011 agreement, which determined, in article 3, the centre line for the safe demilitarized border zone as that of the 1 January 1956 border-line. Furthermore, it is important to affirm that both the agreements on Border Security and the Joint Political and Security Mechanism of 29 June 2011, and on the Demarcation of the Boundary, dated 13 March 2012, clearly stipulate the North/South 1 January 1956 border-line to be the reference for establishment of the safe demilitarized border zone and the border-line demarcation (articles 2 and 2 (1), respectively).

3. With regard to the safe demilitarized border zone, the depiction of the zone failed to adopt the 1 January 1956 criterion and thereby depicted the disputed area known as the 14 miles south of Bahr el Arab as part of South Sudan, a determination that has no legal basis. The Government of the Sudan has responded to the African Union High-level Implementation Panel, via its letter of 17 November 2011, affirming the basic principle that the agreed border-line is that of 1 January 1956 (see enclosure 1).

4. While the Government of the Sudan does not accept the November map as defining the centre line, it agrees that the centre line for the safe demilitarized border zone (1 January 1956 border-line) shall be without prejudice to the ongoing negotiations on the five disputed areas.

5. The Government of the Sudan stresses that the sole criterion for determining the central line should be the 1 January 1956 border-line .

Attachment to enclosure 2

African Union High-level Implementation Panel
Explanatory note dated 1 June 2012 on the centre line map for the safe demilitarized border zone

1. The African Union Peace and Security Council (PSC) communiqué of 24 April 2012, reaffirmed by the Security Council in its resolution 2046 (2012) of 2 May 2012, under Chapter VII, prescribes a road map for implementation by the two States, which makes reference to the administrative and security map produced by the African Union High-level Implementation Panel and submitted to the President of the Sudan and the President of the Republic of South Sudan on 9 November 2011, under cover of a note verbale.

2. The November 2011 map depicted the determination by the African Union High-level Implementation Panel of the safe demilitarized border zone (SDBZ). The depiction of the centre line permits the clear definition of the area of responsibility (AOR) of the Joint Border Verification and Monitoring Mechanism (JBVMM). Accordingly, the safe demilitarized border zone has now been reproduced in a uniform colour scheme to represent the area of responsibility of the Joint Border Verification and Monitoring Mechanism.

3. As required by the Peace and Security Council and the Security Council, the safe demilitarized border zone will be established "in accordance with the November 2011 African Union High-level Implementation Panel map" and without prejudice to ongoing negotiations on the disputed areas (Peace and Security Council, para. 12 (iii); Security Council resolution 2046 (2012), para. 1 (iii)).

4. The African Union High-level Implementation Panel has now reproduced its November 2011 map, to include additional topographic detail, particularly of the Bahr el Arab/Kiir River, along which part of the centre line runs — this answers points of clarification raised by the Government of the Sudan in November 2011. The new representation of the November 2011 map also removes any depiction of the safe demilitarized border zone on the Abyei Area administrative boundary, as this area is covered by alternative arrangements under the 20 June 2011 Abyei Agreement.

5. The African Union High-level Implementation Panel would like to reiterate that the sole purpose of its map is to facilitate the establishment of the security mechanisms agreed by the two States, by depicting the physical area of the safe demilitarized border zone and the area of responsibility for the Joint Border Verification and Monitoring Mechanism, in order that the Border Monitoring Support Mission and cross-border corridors can be established. The map has no status beyond this.

Enclosure 3

Letter dated 7 June 2012 from the Lead Negotiator of the Government of the Sudan addressed to the Chair of the African Union High-level Implementation Panel

With reference your letter of 5 June 2012 regarding the issue of the security map for the safe demilitarized border zone, allow me at the outset to thank you for the prompt response regarding the issue, which is of great concern to the Government of the Sudan.

Your clarifications included, inter alia:

1. That the guideline of the border-line between the two countries is that of the 1 January 1956 border, and that the Panel has never adopted a position other than the inviolability of the 1 January 1956 line as the boundary between the two States, as stipulated in the Comprehensive Peace Agreement.

2. That the sole purpose of the map was to "indicate the centre line the parties could use to determine the safe demilitarized border zone, while they determine and demarcate the final boundary"; and that it was produced without prejudice to the final determination of the status of the disputed areas and the demarcation of the border between the two States.

3. That nothing said or done (with regard to the map) should be taken to suggest allocation of the 14 miles south of Bahr el Arab to South Sudan.

4. That it does not fall within the ambit of the work of the Joint Political and Security Mechanism, the inter-State body charged with the task to determine the coordinates of the safe demilitarized border zone.

Within this context, the Government of the Sudan would like to reiterate its position as that embodied in the letter of 17 November 2011, sent to the Panel by Bakri Hassan Salih, Minister of the Presidency of the Republic of the Sudan, conveying the position of the President of the Republic of the Sudan of the objection of the Government of the Sudan to the security map submitted by the Panel.

The claim that the United Nations Mission in the Sudan (UNMIS) discharged its responsibilities during the interim period, territorially, based on the notion that Bahr el Arab was under southern Sudan administration, is totally incorrect. Witness the map used by UNMIS which clearly shows otherwise (the UNMIS map was submitted to the African Union High-level Implementation Panel on a previous occasion).

We believe that the reason why Bahr el Arab was included in the security map as belonging to South Sudan was that Kriss Lackham and Alex De Waal of the secretariat maintained that the area was under the occupation of Government of South Sudan armed forces, thus creating a de facto reality. This is really telling. Moreover, it is indeed encouraging occupation of territories belonging to the other State to change the border-line by force, thus violating recognized principles of international law.

We reiterate our appreciation for the clarifications and assure you of our continuous cooperation with the Panel in this and other issues of the post-secession negotiation process.

(*Signed*) Idris M. Abdel **Gadir**
Lead Negotiator
Government of the Sudan

Enclosure 4

Letter dated 4 July 2012 from the Minister of Defence and Head of the delegation of the Sudan to the Joint Political and Security Mechanism addressed to the Chair of the African Union High-level Implementation Panel

1. We would like to express our thanks and appreciation to you and to the esteemed Panel for the letter dated 2 July 2012 concerning the African Union High-level Implementation Panel map. You may agree with us that this issue had continually and repeatedly come to the fore. We would like to seize this opportunity to restate, once again, our position in this regard, as follows.

2. We fully subscribe to the conviction that the map is drawn without prejudice to the final status of the joint common border. We have reconfirmed this position during the exchange of correspondence on the matter, and on several other occasions.

3. We would like, as well, to bring to your attention that your secretariat have informed us, during a bilateral meeting chaired by you that the reason why the disputed area known as 14 miles south of Bahr el Arab was drawn as such, is due to the fact that the area is under the occupation of Government of South Sudan forces. It is the salient principle of international law that occupation is an illegal act that confers no legal right whatsoever. Even temporary or provisional arrangements such as the determination of a security demilitarized zone can in no way be influenced by occupation.

4. The decision of the Joint Political and Security Mechanism (JPSM) in the first meeting it held in Khartoum, on 18 September 2012, entrusted the African Union High-level Implementation Panel with the preparation of an agreed map showing the 1 January 1956 border-line provided that the preparation be carried out with administrative boundaries in place of disputed areas.

5. The United Nations missions (United Nations Mission in the Sudan (UNMIS), African Union-United Nations Hybrid Operation in Darfur (UNAMID) and United Nations Mission in South Sudan (UNMISS)) have endorsed and used, for the execution of their temporary mandates, the map of 1 January 1956, notwithstanding that there was no agreement on some specific areas in the map, in other words, the five disputed areas. The United Nations Interim Security Force for Abyei (UNISFA), entrusted with a similar mandate, as well, presently applies the same map for the discharge of its mandate. Legally, the status quo shall be maintained until a settlement otherwise is arrived at. This is a cardinal principle of international law that has to be upheld. An added confirmation of this statement is the report of UNMIS and the Ceasefire Joint Military Committee (CJMC) and the minutes included therein signed by the representatives of the two Governments' forces.

6. The presence of the army of the Government of South Sudan in the 14 miles south of Bahr el Arab area, even to the north of the river, constitutes a flagrant violation of the Comprehensive Peace Agreement, and of the sovereignty and territorial integrity of the Sudan.

7. The concerned international and regional establishments, namely the United Nations and the African Union, are duty-bound to apply pressure and take necessary

action to secure the withdrawal of the Government of South Sudan from the above-mentioned area.

8. Failing this, the Government of the Sudan obviously has the right to maintain its legitimate right to preserve its territorial integrity and to end the occupation.

9. Once again, and in order to allay indefinitely any confusion that might arise surrounding our position, we would like to re-emphasize that our objection concerns the alteration of the status of the 14 miles south of Bahr el Arab area for the purpose of determining the security zone that does not prejudice the final settlement of the joint border.

(*Signed*) L. General (PSC) Engineer
Abdel Raheem Mohamed **Hussein**
Minister of Defence
Head of the delegation of the Sudan to the
Joint Political and Security Mechanism

Enclosure 5

Statement by the Government of the Republic of the Sudan in recognition of the Republic of South Sudan

[Khartoum, 8 July 2011]

In accordance with the recognition of the Government of the Sudan of the right of self-determination for the people of Southern Sudan and its acceptance of the outcome of the 9 January 2011 referendum and respecting the choice of the people of Southern Sudan to have their independent state.

The Republic of the Sudan declares:

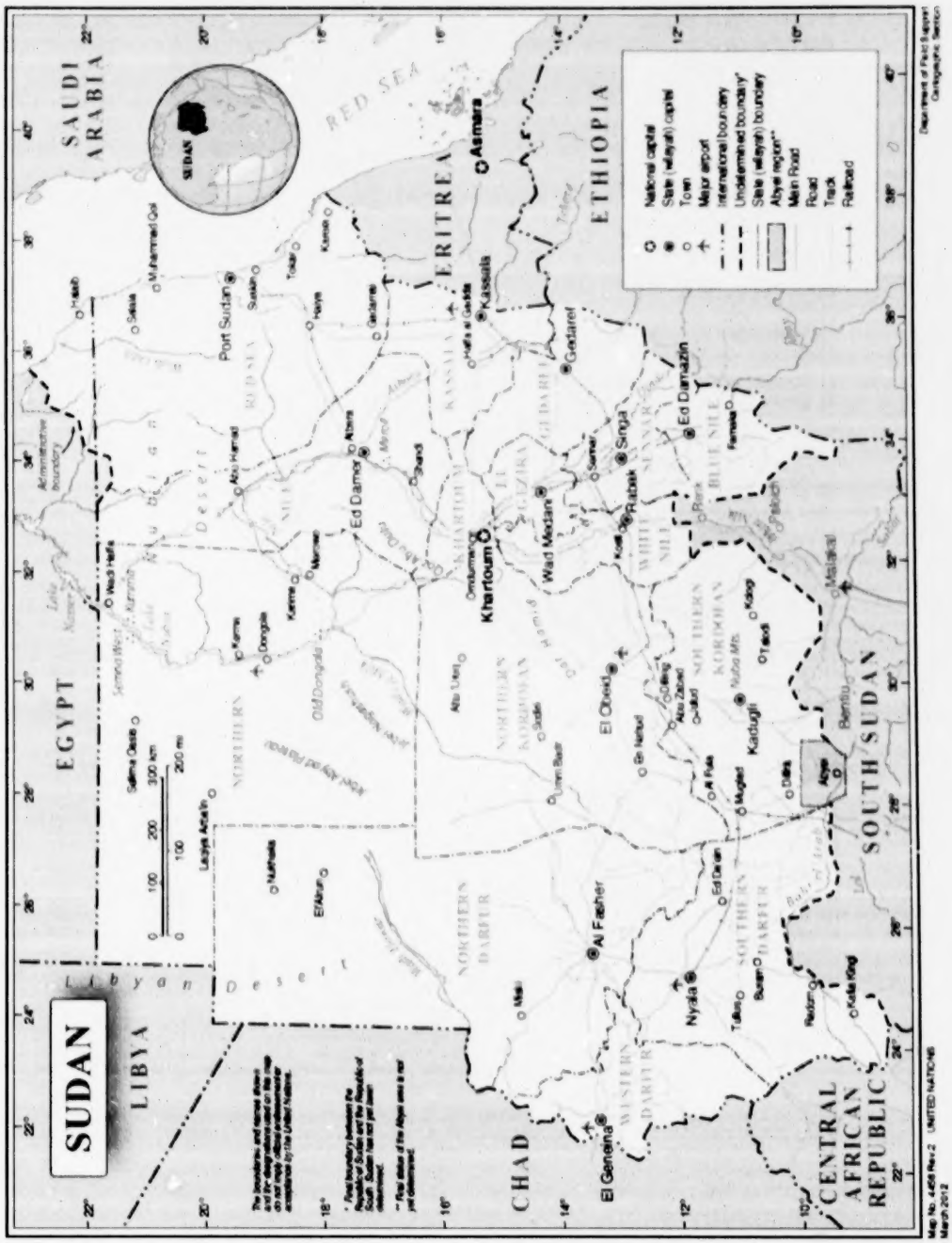
Its recognition of the establishment of the Republic of South Sudan as an independent and sovereign State as of 9 July 2011, in accordance with the existing boundaries between North and South Sudan as of 1 January 1956 and as they were when the Comprehensive Peace Agreement (CPA) was signed on 9 January 2005, and in accordance with the norms and principles of the international law that relates to the recognition of States.

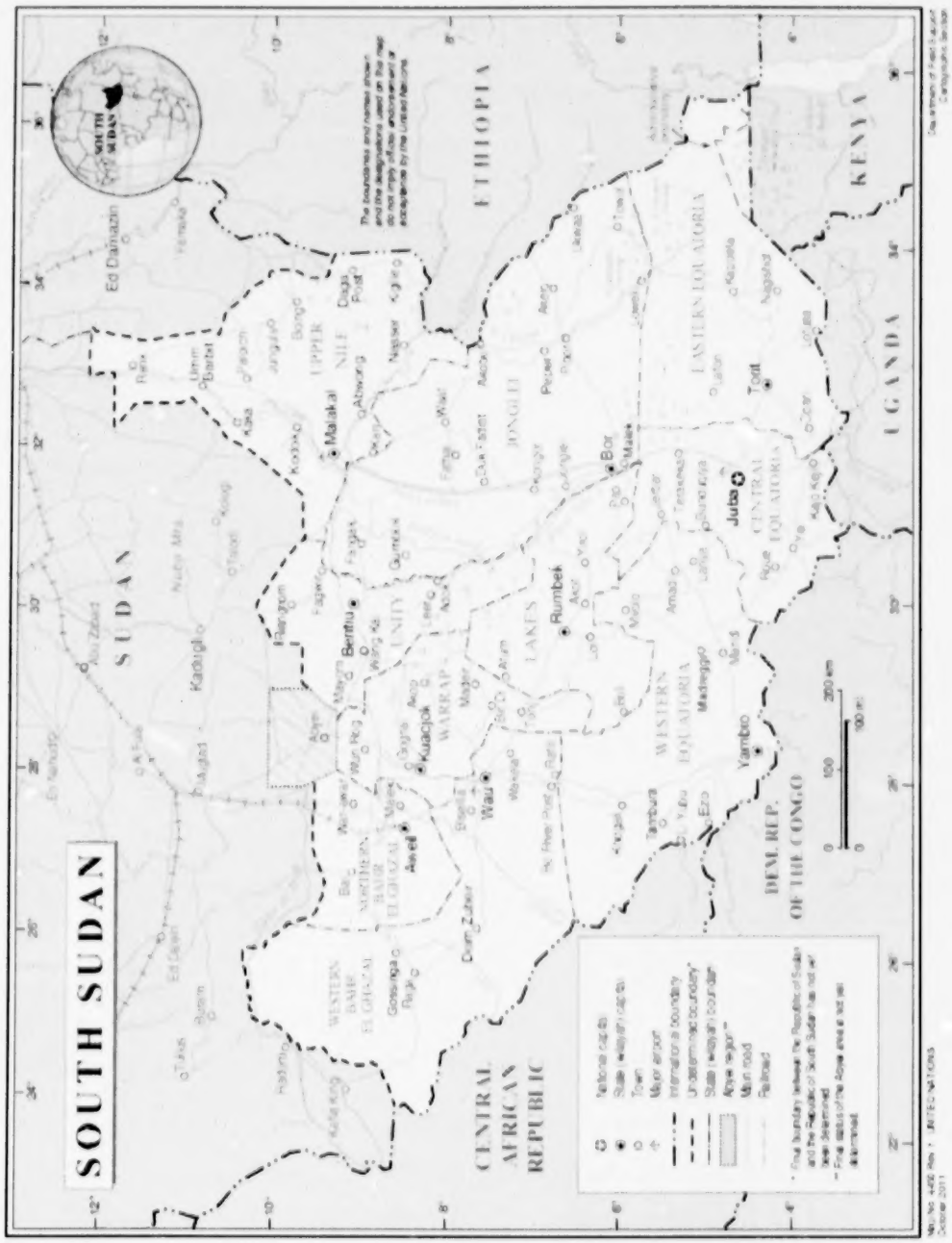
As the Republic of the Sudan expresses its wishes for the establishment of a stable, safe and prosperous state, it is looking forward to a special relationship with the Republic of South Sudan based on the historic relations that bound the peoples of the two countries, and in conformity with the values of international cooperation, bilateral respect and good neighbourliness. The Republic of the Sudan reiterates its commitment to settle all the remaining issues stemming from the Comprehensive Peace Agreement and the post-secession through negotiation, dialogue and cooperation aiming at a brighter future whereby the people of the two countries enjoy peace, development and stability.

As the Republic of the Sudan hereby recognizes the establishment of the Republic of South Sudan, it calls upon the Government of the Republic of South Sudan to recognize the treaties and agreements entered into by the Republic of the Sudan, whether bilateral, regional or international.

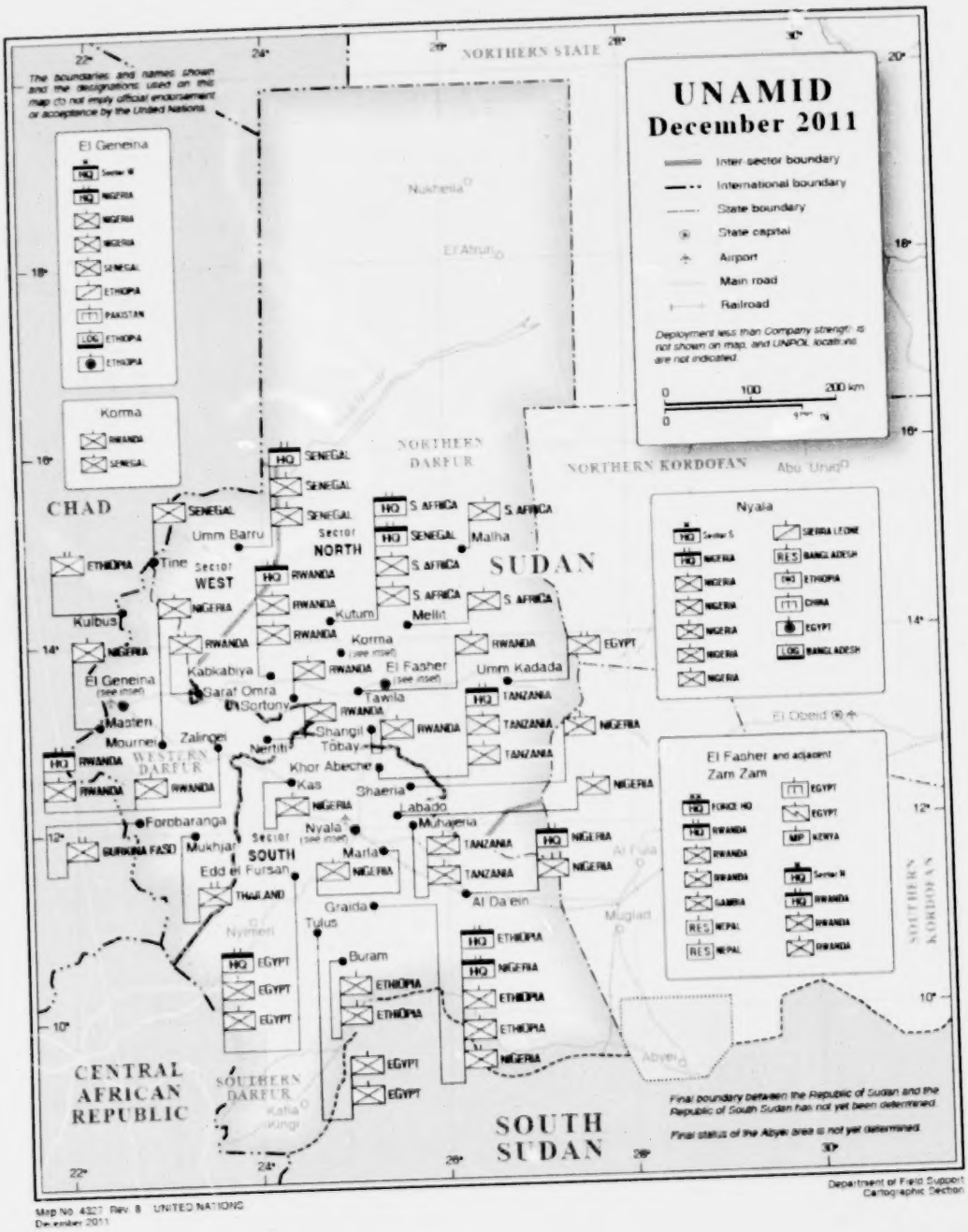
Enclosure 6

Maps of the Sudan and South Sudan submitted by the Sudan




SOUTH SUDAN
SUDAN
ETHIOPIA
KENYA
UGANDA
CENTRAL AFRICAN REPUBLIC
DEM. REP. OF THE CONGO
Juba
Malakal
Bentiu
Rumbek
Bor
Wau
Aweil
Yambio
Torit
Kuajok
Renk
Ed Damazin
Kadugli
Nyala
Gos Beida
Am Timan
Abyei region
Main road
Railroad
Town
Major airport
International boundary
Undetermined boundary
State (wilayah) boundary
The boundaries and names shown and the designations used on this map do not imply official endorsement or acceptance by the United Nations.

UNMISS
March 2012
SUDAN
SOUTH SUDAN
ETHIOPIA
CENTRAL AFRICAN REPUBLIC
DEM. REP. OF THE CONGO
UGANDA
KENYA
Ed Damazin
Kadugli
Nuba Mts.
Juba
Malakal
Bentiu
Rumbek
Bor
Wau
Aweil
Kuacjok
Leer
Akop
Yirol
Kongor
Jonglei
Pibor
Torit
Yei
Maridi
Yambio
Tambura
Li Yubu
Ezo
Khogali
Boli
Melo
Lakes
Warrap
Western Bahr el Ghazal
Northern Bahr el Ghazal
Western Equatoria
Central Equatoria
Eastern Equatoria
Upper Nile
Jonglei
Unity
Abyei region**
National capital
State (wilayah) capital
Town
Major airport
International boundary
Undetermined boundary*
State (wilayah) boundary
Sector boundary
Temporary Ops Base
Main road
Railroad
0 100 200 km
0 100 mi
The boundaries and names shown and the designations used on this map do not imply official endorsement or acceptance by the United Nations.
* Final boundary between the Republic of Sudan and the Republic of South Sudan is not yet determined.
** Final status of the Abyei area is not yet determined.
Map No. 4456 Rev. 02 UNITED NATIONS
March 2012
Department of Field Support
Cartographic Section


UNAMID
December 2011
Inter-sector boundary
International boundary
State boundary
State capital
Airport
Main road
Railroad
Deployment less than Company strength is not shown on map, and UNPOL locations are not indicated.
0 100 200 km
The boundaries and names shown and the designations used on this map do not imply official endorsement or acceptance by the United Nations.
NORTHERN STATE
NORTHERN DARFUR
NORTHERN KORDOFAN
SUDAN
CHAD
CENTRAL AFRICAN REPUBLIC
SOUTH SUDAN
SOUTHERN DARFUR
SOUTHERN KORDOFAN
WESTERN DARFUR
Nukheila
El Atrun
Abu Uruq
Umm Barru
Tine
Kulbus
El Geneina
Masteri
Mourne
Zalingei
Forobaranga
Mukhjar
Edd el Fursan
Nyala
Kutum
Malha
Mellit
Korma
El Fasher
Umm Kadada
Kabkabiya
Sarafa Omra
Sortony
Tawila
Sharigil
Tobay
Nertiti
Khor Abeche
Kas
Shaeria
Labado
Muhajeria
Marla
Graida
Tulus
Buram
Al Da ein
Mugiari
Nyala
El Fasher and adjacent Zam Zam
El Obeid
Final boundary between the Republic of Sudan and the Republic of South Sudan has not yet been determined.
Final status of the Abyei area is not yet determined.
Map No. 4327 Rev. 8 UNITED NATIONS
December 2011
Department of Field Support
Cartographic Section

Enclosure 7

Report dated 28 January 2010 of the subcommittee charged with reconciling documents with maps

[Original: Arabic]

Technical Committee charged with demarcating the 1 January 1956 borders between northern and southern Sudan

Report of the subcommittee charged with reconciling documents with maps

Mandate

1. The six-person subcommittee charged with reconciling documents with maps was formed at the direction of the Chair of the Technical Committee charged with demarcating the 1 January 1956 border, in agreement with the Vice-Chair, the representative of the Government of South Sudan, on 10 November 2009.

2. The six-person subcommittee was made up of the following members:

1.	Colonel/Engineer Amin Muhammad Banaga	Chair
2.	Engineer James Lah Ajariel	Member
3.	Engineer Khalid Muhammad Uthman	Member
4.	Professor Joshua Awthor Akol	Member
5.	Mawlana Darwish Garang Wol	Member
6.	Mawlana Doctor Ma'adh Ahmad Muhammad Tango (Mr. Abu Talib al-Shaykh al-Nur represented Mawlana Doctor Ma'adh at all the meetings)	Member

3. The subcommittee's task was to examine non-map documents, classify them in accordance with the five areas as described on the maps, determine the extent to which they conformed to the maps, and identify those points of difference where applicable.

4. The subcommittee was to submit a report to the Technical Committee within 10 days of its formation.

Workplan

5. The subcommittee met intensively at the rate of twice a day at the headquarters of the commissions in Khartoum to carry out the task described in paragraph 3 above.

6. The subcommittee requested the members of the Technical Committee, through its secretariat, to provide any documents in their possession that might help the subcommittee carry out the task entrusted to it.

Work guidelines

7. The subcommittee adopted the following guidelines:

(a) It would identify and classify documents in accordance with their bearing on the areas and critical dates.

(b) It would organize the documents by area and relevant maps.

(c) It would determine the extent to which the maps were in general agreement with the documents.

(d) It would verify precise conformity on the basis of satellite photos after its report was approved by the Technical Committee.

(e) If no Gazette entry or other record was available, the subcommittee would recommend in its report adoption of the demarcation described in the maps.

(f) It would identify and certify points of agreement and difference between the documents and the maps.

(g) Subcommittee members reserved the right to express their opinions regarding the documents in the course of any deliberations by the Technical Committee.

Gazette entries and documents that were consulted

8. The subcommittee reviewed decisions, agreements and Gazette entries that touched on the five areas as demarcated and agreed to in the maps. A total of 11 Gazette entries and seven agreements were identified as relevant.

9. The relevant Gazette entries were as follows:

	Gazette No.	*Date*	*Page No.*	*Gazette entry*	*Summary*
1	227	28 December 1912	734	Establishment of the Nuba Mountains Province	
2	386	15 December 1921	1512	Administrative boundary between the Upper Nile and the Nuba Mountains Provinces	On the Tonga-Talodi road, at Khor Ragaba, 22 miles northeast of Tonga
3	395	15 May 1922	1568-1569	Adjustment of Kordofan-Nuba Mountains province boundary	Adjustment of Kordofan-Nuba Mountains province boundary, described by geographical features
4	414	30 April 1923	1808	Transfer of Kaka from Upper Nile Province to the Nuba Mountains Province	Kaka town is attached to Rashad District for administrative purposes
5	480	15 September 1926	253	Transfer of Tonga Town and Morada from Upper Nile Province to Nuba Mountains Province	Tonga Town and Morada will be transferred from Upper Nile Province to Nuba Mountains Province with effect from 1 January 1927, and will be attached to the Southern District of Nuba Mountains Province

	Gazette No	*Date*	*Page No*	*Gazette entry*	*Summary*
6	489	15 March 1927	59-60	Provincial boundaries	Description of the border between the Nuba Mountains Province and Upper Nile Province in consequence of the transfer of the Dinka and Nuers from the Nuba Mountains Province to Upper Nile Province
7	511	21 December 1928	378	Kordofan-Nuba Mountains Provinces Amalgamation	Amalgamation of Kordofan and Nuba Mountains Provinces into a single province to be referred to as Kordofan Province, with effect from 1 January 1929, including distribution and nomenclature of districts
8	511	21 December 1928	378	Transfer of Tonga Town and Morada from the Nuba Mountains Province to the Upper Nile Province	Transfer Tonga Town and Morada from the Nuba Mountains Province to the Upper Nile Province, with effect from 1 January 1929, to be attached to the central district of Upper Nile Province
9	546	15 May 1931	115	Border alteration	As a result of the transfer of sections of Dinka from Kordofan to Upper Nile Province, alteration of the boundary between those two provinces, described according to coordinates and geographical features
10	598	15 August 1934	177-178	Boundary between Western Jebels and Eastern Jebels Districts, Kordofan Province	This was an internal border demarcation, and has no bearing on the 1 January 1956 borders
11	663	15 June 1938	118	Renaming of Shilluk District	It was renamed "Northern District"

10. The relevant agreements and correspondence were as follows:

	Date	*No.*	*Topic*	*Summary*
1	22 April 1924		Munroe-Wheatley Agreement	Borders between the Rzeigat and Dinka Malual, and the grazing lands and hunting grounds of the two tribes
2	11 February 1931	Dr.P/8.A.2	Letter from the Governor of Darfur to the Administrative Secretary	Regarding the request of the Governor of Bahr el Ghazal to rescind the Munroe-Wheatley Agreement on the grounds that it would lead to armed conflict
3	25 February 1931	CS/16.3.1/4	Letter from the Administrative Secretary to the Governors of Darfur and Bahr el Ghazal	Continuation in force of the 1924 Munroe-Wheatley Agreement
4	23 January 1941	–	Meeting between the Deputy Administrative Secretary and the Governors of Darfur and Bahr el Ghazal in Khartoum	1. Continuation in force of the 1924 Munroe-Wheatley Agreement 2. Buruk map showing borders of grazing and hunting lands
5	17 October 1930	Dr.P/16.A.7	Letter from the Governor of Darfur to the Governor of Bahr el Ghazal	Purpose: administrative arrangements pursuant to the abolition of the Kafia Kingi district
6	7 November 1930	B.G.P/16.A.2	Letter from the Governor of Bahr el Ghazal to the Governor of Darfur	Response to the letter from the Governor of Darfur concerning the abolition of the Kafia Kingi district
7	15 January 1931	–	Transcript of the Abu Sal`ah meeting	Discussion of the transfer of the Mandala tribes from West Bahr el Ghazal district to Darfur

Reconciling of maps with Gazette entries and agreements

11. The subcommittee compared the documents and agreements with the maps used by the map committee, after classifying them in accordance with the five areas.

12. The results of the comparisons between maps and documents are as follows, starting from the west:

South Darfur and West Bahr el Ghazal

13. The middle part of this area, which spans the Bahr el Arab river, is covered by the entire Buram map (65-E, October 1937) and the western section of the Abu Matariq map (65-F, July 1936). No relevant document or Gazette entry was found.

14. The eastern part of this area is covered by the eastern section of the Abu Matariq map and the western section of the Niyam Layl map (65-J, May 1936). The Munroe-Wheatley Agreement was found to be in general agreement with the details in these maps.

South Darfur and North Bahr el Ghazal

15. This area is covered entirely by the eastern section of the Niyam Layl map and the western section of the Abyei map (65-K, July 1936). The details in these maps were found to be in general conformity with the Munroe-Wheatley Agreement.

South Kordofan and North Bahr el Ghazal

16. Most of this area, which extends east from its border with Darfur to a point between Dabbat Karmah and Dabbat Manjuk, is covered by the eastern section of the Abyei map and the western section of the Ghabat al-Arab map. This area is described only in the maps.

17. For a small portion of this area, the description in Gazette No. 546 of 15 May 1931 of the transfer of sections of Dinka Rueng from Kordofan to Upper Nile were found to be in general conformity with the map. The portion in question is approximately 22 km in length.

South Kordofan and Unity

18. This area is completely covered in Gazette No. 546 of 15 May 1931, which details the transfer of Dinka Rueng tribes to Upper Nile, and describes the border by referencing coordinates and geographical features.

19. This area is also covered by four 1:250000-scale maps: the eastern section of the Ghabat al-Arab map (June 1936), the Kaylak Lake map (65-H, May 1937), the Talodi map (66-E, October 1937), and the western portion of the Naw Lake map (66-I, December 1936).

20. The details of the description in the Gazette referred to in paragraph 18 were found to be in general conformity with the details of the four maps referred to in paragraph 19.

South Kordofan and Upper Nile

21. There is a small section of this area, approximately 12 km in length, described by the Gazette entry referred to in paragraph 18, the details of which were found to be in general conformity with the corresponding section of the Naw Lake map (66-I, December 1936).

22. The remaining section of the border is found in the eastern section of the Naw Lake map, the Malakal map (66-J, June 1940), the Malut map (66-F, February 1935) and the Rank map (66-B, December 1936). The demarcation of this section of border depends solely on the aforementioned maps.

23. Gazette No. 414 of 30 April 1923 covers the transfer of the city of Kaka from Upper Nile Province to Kordofan Province. Nothing was found in the maps to corroborate this Gazette entry.

The Technical Committee

(*Signed*)

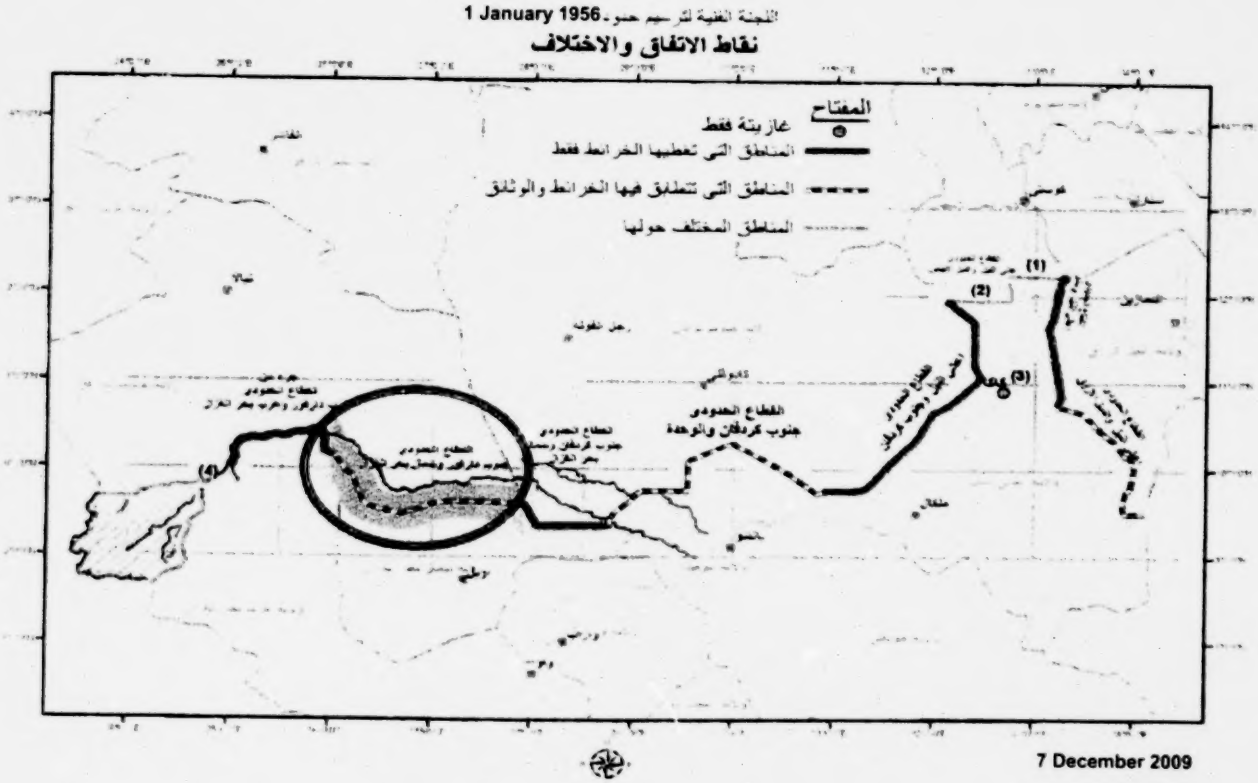
1.	Dr. Abdullah al-Sadiq Ali	Chair
2.	Colonel/Engineer Rik Degol	Member
3.	Mr. Abu Talib al-Shaykh al-Nur	Member
4.	Amir Hiraykah Izz al-Din Humaydah	Member
5.	Engineer/Counsellor Abbas Muhammad Khayr	Member
6.	Dr. Bukhari Abdullah al-Ja'ali	Member
7.	Dr. Ma'adh Ahmad Muhammad Tango	Member
8.	Police General Haydar Hasan Taha	Member
9.	Colonel/Engineer Amin Muhammad Banaga	Member
10.	Engineer James Lah Ajariel	Member
11.	Engineer Musa al-Sharif Muhammad	Member
12.	Engineer Khalid Muhammad Uthman	Member
13.	Dr. Joshua Awthor Akol	Member
14.	Mr. Shol Deng Dakir	Member
15.	Engineer Abdullah Ibrahim Babikr	Member
16.	Mr. Muhammad Wuda'at Allah Mufji	Member
17.	Mr. John Gaylalul	Member
18.	Mr. Darwish Garang Wol	Member

Attachment:

1. Explanatory map showing agreements and differences

Attachment to enclosure 7

Map attached to the report of the Boundary Committee shows the international boundary to the south of Bahr el Arab



United Nations A/67/214–S/2012/592

General Assembly
Security Council

Distr.: General
1 August 2012

Original: English

General Assembly
Sixty-seventh session
Item 74 of the provisional agenda*
Report of the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991

Security Council
Sixty-seventh year

Report of the International Tribunal for the Former Yugoslavia

Note by the Secretary-General

The Secretary-General has the honour to transmit to the members of the General Assembly and the members of the Security Council the nineteenth annual report of the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991, submitted by the President of the International Tribunal in accordance with article 34 of the statute of the Tribunal (see S/25704 and Corr.1, annex) which states that:

> The President of the International Tribunal shall submit an annual report of the International Tribunal to the Security Council and to the General Assembly.

* A/67/150.

12-44865 (E) 300812

Please recycle

Letter of transmittal

31 July 2012

I have the honour to submit the nineteenth annual report of the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991, dated 31 July 2012, to the General Assembly and the Security Council, pursuant to article 34 of the statute of the International Tribunal.

(*Signed*) Theodor **Meron**
President

Nineteenth annual report of the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991

Summary

The nineteenth annual report of the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991 covers the period from 1 August 2011 to 31 July 2012.

The Tribunal continued to focus upon the completion of all trials and appeals. At the close of the reporting period, 17 persons are in appeal proceedings, 17 persons are on trial, and one person is at the pretrial stage. Proceedings against 126 of the 161 persons indicted by the Tribunal have been completed. The report that follows details the activities of the Tribunal during the reporting period and demonstrates the Tribunal's focus on its goal of completing its proceedings as soon as possible, without sacrificing due process.

The President intensified efforts to streamline procedures and introduced a variety of reforms to improve the pace of the Tribunal's work. The President focused especially on problems that might impact the efficiency of proceedings, such as delays in translations and imbalanced workload distribution between ad litem and permanent judges. Staff attrition continued to be a serious challenge to the work of the Tribunal.

All sections of the Tribunal coordinated to ensure a smooth transition of functions to the International Residual Mechanism for Criminal Tribunals. The Office of Legal Affairs and the Informal Working Group of the Security Council on International Tribunals provided extensive and valuable assistance and advice to the Tribunal. On 1 July 2012, the branch for the International Criminal Tribunal for the Prosecution of Persons Responsible for Genocide and Other Serious Violations of International Humanitarian Law Committed in the Territory of Rwanda and Rwandan Citizens Responsible for Genocide and Other Such Violations Committed in the Territory of Neighbouring States between 1 January and 31 December 1994 (the branch for the International Criminal Tribunal for Rwanda is based in Arusha, United Republic of Tanzania) of the Residual Mechanism began operating.

During the reporting period, the Tribunal continued to make significant contributions to the development of legal norms of international criminal law and procedure, and to the maintenance of peace and stability in the states of the former Yugoslavia. The Tribunal's success is underscored by the fact that all 161 indictees are accounted for, and by the Tribunal's reputation for procedural fairness and impartiality.

The Tribunal made extensive efforts to share information about its work with relevant individuals and organizations, facilitating exchanges of information about the trials and appeals it has conducted, the substantive norms its judgements have elucidated, and the procedural approaches its judicial branches have adopted.

The Office of the Prosecutor made progress towards the completion of the Tribunal's mandate at both the trial and appellate levels. The Office continued to develop working relationships with the authorities of the States of the former Yugoslavia to encourage cooperation with the Tribunal and to support domestic war crimes prosecutions.

Under the authority of the President, the Registry continued to play a crucial role in the provision of administrative and judicial support to the Tribunal. The Office of the Registrar coordinated the work of the various Registry sections, which dealt with a wide range of legal, policy and operational matters, including the practical arrangements necessary for the commencement of the Residual Mechanism.

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I. Introduction

1. The nineteenth annual report of the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991 outlines the activities of the Tribunal for the period from 1 August 2011 to 31 July 2012.

2. During the reporting period, the Tribunal continued to implement its completion strategy as endorsed by the Security Council in resolution 1503 (2003), and to focus on ensuring that trial and appeal proceedings were not delayed. At the close of the reporting period, 17 persons are in appeal proceedings, 17 persons are on trial, and one person is at the pretrial stage. The Trial Chambers delivered judgement in the case of *Prosecutor v. Momčilo Perišić*, and contempt judgements in the cases of *Prosecutor v. Shefqet Kabashi*; *The Contempt Case of Dragomir Pećanac*; *Prosecutor v. Jelena Rašić*; and *Prosecutor v. Vojislav Šešelj* (case numbers IT-03-67-R77.3 and IT-03-67-R77.4). The Tribunal has concluded proceedings against 126 of the 161 persons indicted by the Tribunal. There are no outstanding indictments for violations of core statutory crimes.

3. President Patrick Robinson (Jamaica) and Vice-President O-Gon Kwon (Republic of Korea) demitted office on 17 November 2011, following the election of Judge Theodor Meron (United States of America) and Judge Carmel Agius (Malta) as President and Vice-President respectively. The Prosecutor, Serge Brammertz, was reappointed by the Security Council on 14 September 2011 by its resolution 2007 (2011), with effect from 1 January 2012. The Registrar, John Hocking, continued to fulfil his duties at the Tribunal.

4. Measures were taken during the reporting period to reform the Tribunal's procedures to maximize efficiency. In particular, the President implemented measures to ensure that the pace of translations would not unduly delay proceedings. Additional resources were assigned to the cases of *Prosecutor v. Jadranko Prlić et al.*, *Prosecutor v. Zdravko Tolimir*, and *Prosecutor v. Vojislav Šešelj* to reduce previously forecast translation times by 50 per cent. Following the approval of the Secretary-General and the Security Council, the President reassigned the Tribunal's contempt cases, creating a more even workload distribution between permanent and ad litem judges, thus assuring greater efficiency in the processing of contempt cases, and minimizing their impact on other cases before the Tribunal.

5. The pace of the Tribunal's trials and appeals continued to be affected by staffing shortages and the loss of highly experienced staff members. Despite resolutions adopted by the General Assembly and the Security Council on the issue of staff retention, the problem persists. In response, the President, joining the calls of his predecessor, urged the Security Council to take measures to help the Tribunal to find practicable solutions to address the issue as the Tribunal approaches the completion of its work. Following requests by the President in December 2011, and clear statements of support from the Security Council, the Tribunal obtained a waiver from the Department of Management, allowing it to hire otherwise qualified interns directly, without waiting six months after the termination of their internships. This measure will assist the Tribunal in quickly replacing departing staff in certain circumstances.

II. Activities involving the entire Tribunal

A. President

6. The President focused his efforts upon the core functions of the Tribunal — trials and appeals. He also instituted internal reforms, pursued capacity-building and legacy projects, conducted relations with Governments and international organizations, and carried out the judicial responsibilities of the Office of the President.

1. Internal reforms

7. The Tribunal amended rule 65 of the Rules of Procedure and Evidence in order to clarify the circumstances in which provisional release may be ordered by a Trial Chamber.

8. The President coordinated closely with the Office of Legal Affairs and the Informal Working Group to implement management reforms that reduced the risk of delays in judgements and appeals. In particular, the President implemented measures to expedite the translations of final trial briefs and trial judgements to avoid delays on appeals. The President instructed both the Registrar of the International Tribunal for the Former Yugoslavia and, in his capacity as President of the Appeals Chamber of the International Criminal Tribunal for Rwanda, the Registrar of the International Criminal Tribunal for Rwanda, to assign additional resources in order to halve the projected time needed for translation in four cases. The Trial Chambers also expanded the practice of including translators in the judgement drafting process in order to expedite the translation of trial judgements.

9. The President reassigned a number of contempt cases to ad litem judges with the permission of the Secretary-General and the approval of the Security Council. Previously, the burden of contempt cases had fallen primarily on the Tribunal's permanent trial judges. This meant that permanent trial judges were seized of up to 10 contempt cases in addition to cases involving core crimes within the jurisdiction of the Tribunal. By reassigning contempt cases to the Tribunal's ad litem judges, the President relieved a burden that had been adversely affecting progress in the permanent judges' other cases.

10. The President closely monitors the progress of trials and appeals, and has proactively assigned additional legal staff to cases where increased staffing can prevent delays.

2. Capacity-building and legacy

11. In October 2011, the Tribunal, the Office for Democratic Institutions and Human Rights of the Organization for Security and Cooperation in Europe (OSCE) and the United Nations Interregional Crime and Justice Research Institute officially closed the joint 18-month "War Crimes Justice Project", which had been established in Sarajevo, Bosnia and Herzegovina, and was a project generously supported by the European Union. The success of the project inspired to begin planning another similar project, in consultation with the Tribunal.

12. On 15 and 16 November 2011, the Tribunal hosted a Conference on the global legacy of the Tribunal, which was attended by over 350 participants. The

Conference was made possible by generous financial assistance provided by the Governments of Luxembourg, the Netherlands, the Republic of Korea and Switzerland, as well as the International Center for Transitional Justice.

13. The Tribunal also continued its assessment of the feasibility of establishing information centres in the region of the former Yugoslavia. Following a series of meetings generously sponsored by the Governments of Slovenia and Switzerland, the Tribunal began bilateral consultations with interested countries. Croatia has expressed its willingness to establish an information centre, as have the Bosniak and Croat members of the Presidency of Bosnia and Herzegovina. Discussions with all relevant States are ongoing.

14. Plans for commemorations appropriate to the Tribunal's twentieth anniversary in 2013 are in the process of being reviewed and will be announced in due course.

3. Relations with Governments and international organizations

15. Prior to the end of his Presidency in November 2011, President Robinson was actively involved in cooperation, outreach and reporting activities to secure support for the Tribunal's work and increase its international profile. President Meron took over responsibility for these activities on the assumption of the Presidency on 17 November 2011.

16. On 5 October 2011, the Tribunal's judges welcomed a group of judges and prosecutors from Kosovo on a study visit to the Tribunal. The visit was part of the Tribunal's ongoing efforts to strengthen cooperation and knowledge-sharing with members of the judiciary in the former Yugoslavia. Tribunal judges met with the visiting members of the Kosovo judiciary to discuss topics including witness protection, plea bargaining, sentencing practice, case management, the appeals process, and legal standards in war crimes adjudication.

17. On 11 November 2011, the President addressed the General Assembly regarding the Tribunal's eighteenth annual report (A/66/210-S/2011/473).

18. On 30 November 2011, the Tribunal hosted a visit by judges of the Appeals Chamber of the International Criminal Court, who met with judges of the Tribunal's Appeals Chamber in order to hear about the Tribunal's experience in preparing for appeals.

19. On 7 December 2011, President Meron addressed the Security Council regarding the sixteenth report of the Tribunal on its completion strategy (S/2011/716).

20. From 10 to 18 February 2012, the President visited the United States of America, providing briefings on the Tribunal's work, the transition to the Residual Mechanism, and challenges facing the Tribunal.

21. From 27 to 31 March 2012, the President visited Washington, D.C., on a visit organized by the city of The Hague in conjunction with leaders of international institutions located there.

22. On 16 April 2012, the President visited the United Kingdom of Great Britain and Northern Ireland, providing a briefing on the Tribunal's completion strategy, the challenges it faced, and the Tribunal's transition to the Residual Mechanism.

23. On 23 April 2012, the President visited France, providing a briefing on the Tribunal's progress towards the completion of its work and the transition to the Residual Mechanism.

24. On 7 June 2012, the President addressed the Security Council regarding the seventeenth report of the Tribunal on its completion strategy (S/2012/354).

25. Between 25 and 29 June 2012, the Tribunal's judges welcomed a study trip by French judges and prosecutors organized by France's National Training School for Judges and Prosecutors. The group was briefed about the work, challenges and achievements of the Tribunal.

26. On 27 June 2012, the Tribunal's judges welcomed members of the Liberal Democratic group of the European Parliament. The parliamentarians were briefed about the work, challenges and achievements of the Tribunal.

4. Judicial activity

27. By virtue of the powers vested in him by the statute, the Rules, and the Practice Directions of the Tribunal, the President issued numerous orders assigning cases to Chambers and reviewed several decisions of the Registrar. The President also granted six requests for pardon, commutation of sentence, transfer, and early release of persons convicted by the Tribunal, and rejected six such applications.

5. Transition to the International Residual Mechanism for Criminal Tribunals

28. On 20 December 2011, the General Assembly elected 25 judges to serve on a roster of judges of the International Residual Mechanism for Criminal Tribunals. On 19 January 2012, the Secretary-General appointed the Registrar of the Tribunal, John Hocking, to serve as the first Registrar of the Residual Mechanism, whose branch in Arusha commenced functioning on 1 July 2012. On 29 February 2012, the Secretary-General appointed Judge Meron, President of the Tribunal and judge of the Residual Mechanism, to serve as the first President of the Residual Mechanism. On 29 February 2012, the Security Council appointed the Prosecutor of the International Criminal Tribunal for Rwanda, Hassan Bubacar Jallow, to serve as the first Prosecutor of the Residual Mechanism. The branch for the International Tribunal for the Former Yugoslavia (based in The Hague, the Netherlands) of the Residual Mechanism will commence functioning on 1 July 2013.

29. The President has taken active steps to ensure a smooth handover of functions to the Residual Mechanism, liaising with internal and external stakeholders and facilitating the development of necessary practices and procedures. In particular, in close coordination with the Office of Legal Affairs and the Informal Working Group, the President ensured that the Rules of Procedure and Evidence of the Residual Mechanism were adopted, and that all judges of the Residual Mechanism were sworn in prior to commencement of the activities of the Arusha branch.

B. Bureau

30. Pursuant to rule 23 of the Rules, the Bureau is composed of the President, the Vice-President and the Presiding Judges of the Trial Chambers. The President consulted the Bureau on requests for pardon, commutation of sentence, and early release of convicted persons serving their sentences. The President also consulted

the Bureau on the implementation of a procedure for the destruction of Chambers records related to the secrecy of deliberations.

C. Coordination Council

31. Pursuant to rule 23 *bis* of the Rules, the Coordination Council consists of the President, the Prosecutor and the Registrar. During the reporting period, the Council met to discuss, inter alia, staff retention, capacity-building, legacy activities, and ensuring a smooth transition to the Residual Mechanism.

D. Plenary sessions

32. During the reporting period, the judges held two plenary sessions. At the 41st plenary session, on 19 October 2011, the judges elected Judge Meron as President of the Tribunal and Judge Agius as Vice-President. At the extraordinary plenary session held on 20 October 2011, the judges discussed proposed amendments to rule 65 (B) of the Rules.

33. On 21 to 25 October 2011, the judges travelled to Berlin for a retreat personally funded by the judges. The purpose of the retreat was to build collegiality among the judges and to discuss issues concerning the work of the Tribunal in a more informal setting. During the retreat, the judges discussed the Tribunal's legacy, amendments to the Rules, admissibility of evidence and the expansion of the Appeals Chamber.

E. Rules Committee

34. The judicial membership of the Rules Committee comprises Vice-President Agius (Chair), President Meron, and Judges Christoph Flügge, Alphons Orie and O-Gon Kwon. The non-voting members include the Prosecutor, the Registrar and a representative of the Association of Defence Counsel. During the reporting period, the Rules Committee met twice, on 17 October 2011 and 22 March 2012, to discuss proposals to the Rules and make recommendations to the judges.

III. Activity of the Chambers

A. Composition of the Chambers

35. A total of 27 judges from 25 countries currently serve at the Tribunal. The Chambers are composed of 13 permanent judges, five permanent judges from the International Criminal Tribunal for Rwanda serving in the Appeals Chamber, and nine ad litem judges.

36. The Tribunal's permanent judges are: Theodor Meron (President, United States of America), Carmel Agius (Vice-President, Malta), Christoph Flügge (Germany), Alphons Orie (Netherlands), O-Gon Kwon (Republic of Korea), Patrick Robinson (Jamaica), Fausto Pocar (Italy), Liu Daqun (China), Jean-Claude Antonetti (France), Bakone Justice Moloto (South Africa), Burton Hall (Bahamas), Howard Morrison (United Kingdom of Great Britain and Northern Ireland) and Guy Delvoie

(Belgium). The permanent judges from the International Criminal Tribunal for Rwanda serving in the Appeals Chamber are: Mehmet Güney (Turkey), Andrésia Vaz (Senegal) and, following their redeployment from the Trial Chamber of the International Criminal Tribunal for Rwanda to the Appeals Chamber, Arlette Ramaroson (Madagascar), effective 22 September 2011, Khalida Rachid Khan (Pakistan), effective 1 March 2012, and Bakhtiyar Tuzmukhamedov (Russian Federation), effective 29 June 2012.

37. During the reporting period, the following individuals served as ad litem judges: Árpád Prandler (Hungary), Stefan Trechsel (Switzerland), Antoine Kesia-Mbe Mindua (Democratic Republic of the Congo), Frederik Harhoff (Denmark), Flavia Lattanzi (Italy), Michèle Picard (France), Elizabeth Gwaunza (Zimbabwe), Melville Baird (Trinidad and Tobago) and Prisca Matimba Nyambe (Zambia). Judge Pedro David (Argentina) also served as an ad litem judge during the reporting period, but left the Tribunal on 10 September 2011 having completed his mandate.

38. During the reporting period, the Trial Chambers were composed of Judges Flügge (presiding), Orie (presiding), Kwon (presiding), Antonetti (presiding), Moloto (presiding), Hall (presiding), Morrison, Delvoie, Prandler, Trechsel, Mindua, Harhoff, Lattanzi, David, Picard, Gwaunza, Baird and Nyambe.

39. During the reporting period, the Appeals Chamber was composed of Judges Meron (presiding), Agius, Robinson, Güney, Pocar, Liu, Ramaroson, Vaz, Khan and Tuzmukhamedov.

B. Principal activity of the Trial Chambers

Trial Chamber I

(a) Pretrial

40. There were no pretrial cases pending before Trial Chamber I at the end of the reporting period.

(b) Trial

Perišić

41. The judgement was rendered on 6 September 2011. The Trial Chamber, composed of Judges Moloto (presiding), David and Picard, found Momčilo Perišić guilty of crimes against humanity and violations of the laws or customs of war, for crimes committed in Sarajevo and Srebrenica (Bosnia and Herzegovina) and Zagreb (Croatia) between August 1993 and November 1995. He was sentenced to 27 years' imprisonment.

Mladić

42. Ratko Mladić is charged with 11 counts of genocide, crimes against humanity, and violations of the laws or customs of war, for acts allegedly committed in Bosnia and Herzegovina between 12 May 1992 and 30 November 1995. The Trial Chamber is composed of Judges Orie (presiding), Flügge and Moloto. The pretrial conference was held on 24 April and 3 May 2012 and the prosecution presented its opening statement on 16 and 17 May 2012. The presentation of the prosecution's case commenced on 9 July 2012.

Stanišić and Simatović

43. Jovica Stanišić and Franko Simatović are charged with five counts of crimes against humanity and violations of the laws or customs of war, for acts allegedly committed in Croatia and Bosnia and Herzegovina between April 1991 and December 1995. The Trial Chamber is composed of Judges Orie (presiding), Picard and Gwaunza. The trial commenced on 28 April 2008, but was adjourned by order of the Appeals Chamber of 16 May 2008, owing to the ill health of Stanišić. The trial recommenced on 2 June 2009. The prosecution concluded its case on 5 April 2011. The defence for Stanišić commenced its case on 14 June 2011 and the defence for Simatović commenced its case on 13 December 2011. Following decisions on a large number of bar table motions for admission into evidence, the defence is scheduled to conclude its case in August 2012. In the week of 9 July 2012, the Chamber heard one Chamber witness. The submission of the parties' final briefs and final arguments are scheduled for 21 September 2012 and from 9 to 11 October 2012, respectively.

(c) Contempt

Shefqet Kabashi

44. Shefqet Kabashi pleaded guilty to two charges of contempt for his failure to testify before the Tribunal in the case of *Prosecutor v. Ramush Haradinaj et al.* (Case No. IT-04-84-T). At a hearing on 31 August 2011, the Trial Chamber, consisting of Judges Orie (presiding), Kwon and Morrison accepted Kabashi's guilty plea on both counts. On 16 September 2011, the Chamber sentenced Kabashi to two months' imprisonment.

Trial Chamber II

(a) Pretrial

Goran Hadžić

45. Goran Hadžić was arrested on 20 July 2011 and transferred to the seat of the Tribunal on 22 July 2011. On 21 July 2011, the President of the Tribunal assigned the case to a bench consisting of Judges Delvoie (presiding), Hall and Mindua. On 25 July 2011, the initial appearance was held. Pretrial preparations are under way. The trial is scheduled to commence on 16 October 2012.

(b) Trial

Haradinaj et al.

46. Ramush Haradinaj, Idriz Balaj and Lahi Brahimaj are charged with six counts of violations of the laws or customs of war, for acts allegedly committed in Kosovo in 1998. The Trial Chamber is composed of Judges Moloto (presiding), Hall and Delvoie. The trial commenced on 18 August 2011; the prosecution concluded its case on 20 April 2012, and none of the accused presented a defence case. Closing arguments were heard on 25, 26 and 27 June 2012. The judgement is being prepared.

Tolimir

47. Zdravko Tolimir is charged with eight counts of genocide, crimes against humanity, and violation of the laws or customs of war, for acts allegedly committed in Bosnia and Herzegovina in 1995. The Trial Chamber is composed of Judges Flügge (presiding), Mindua and Nyambe. The trial commenced on 26 February 2010; the prosecution concluded its case on 17 January 2012, and the defence concluded its case on 15 February 2012. Closing arguments are scheduled to be presented on 21 and 22 August 2012.

Stanišić and Župljanin

48. Mićo Stanišić and Stojan Župljanin are charged with 10 counts of crimes against humanity and violations of the laws or customs of war, for acts allegedly committed in Bosnia and Herzegovina between April and December 1992. The Trial Chamber is composed of Judges Hall (presiding), Delvoie and Harhoff. Trial commenced on 14 September 2009; the prosecution concluded its case on 1 February 2011, and the defence concluded its case on 8 December 2011. The judgement is being prepared.

(c) Contempt

Pećanac

49. Dragomir Pećanac was convicted of one count of contempt for his failure to appear at the Tribunal when subject to a subpoena in the case of *Prosecutor v. Zdravko Tolimir*. His trial before the Chamber in the *Tolimir* case, consisting of Judges Flügge (presiding), Mindua and Nyambe, was held on 30 November 2011 and 1 December 2011. On 9 December 2011, the Chamber sentenced Pećanac to three months' imprisonment.

Šešelj (Case No. IT-03-67-R77.4)

50. Vojislav Šešelj was convicted of one count of contempt for his failure to comply with several Chambers orders requiring him to remove from his public website four books authored by him and several submissions filed confidentially in the case of *Prosecutor v. Vojislav Šešelj* (Case No. IT-03-67-T), all of which reveal confidential witness information. His trial before the Chamber in the *Šešelj* contempt case, consisting of Judges Trechsel (presiding), Kwon and Baird was held on 12 and 18 June 2012. On 28 June 2012, the Chamber sentenced Šešelj to two years' imprisonment.

Trial Chamber III

(a) Pretrial

51. There were no pretrial cases pending before Trial Chamber III during the reporting period.

(b) Trial

Karadžić

52. Radovan Karadžić is charged with 11 counts of genocide, crimes against humanity and violations of the laws or customs of war, for acts allegedly committed

in Bosnia and Herzegovina between 1992 and 1995. The Trial Chamber is composed of Judges Kwon (presiding), Morrison, Baird and Lattanzi (reserve). The trial commenced on 26 October 2009. The prosecution concluded its case on 25 May 2012. The accused presented an oral motion under rule 98 *bis* for acquittal on all the counts in the indictment. On 28 June 2012, the Trial Chamber delivered its oral ruling, acquitting Karadžić of count 1 (genocide in the municipalities) and dismissing the remainder of Karadžić's motion under rule 98 *bis*. The defence is scheduled to commence its case on 16 October 2012.

Prlić et al.

53. Jadranko Prlić, Bruno Stojić, Slobodan Praljak, Milivoj Petković, Valentin Ćorić and Berislav Pušić are charged with 26 counts of crimes against humanity and violations of the laws or customs of war, for acts allegedly committed in Bosnia and Herzegovina between November 1991 and April 1994. The Trial Chamber is composed of Judges Antonetti (presiding), Prandler, Trechsel and Mindua (reserve). The trial commenced on 26 April 2006; the prosecution concluded its case on 24 January 2008, and the defence concluded its case on 17 May 2010. On 7 January 2011, the parties filed their final briefs. Closing arguments were heard between 7 February and 2 March 2011. The judgement is being prepared.

Šešelj

54. Vojislav Šešelj is charged with nine counts of crimes against humanity and violations of the laws or customs of war, for acts allegedly committed in Croatia, Bosnia and Herzegovina and Vojvodina (Serbia) between August 1991 and September 1993. The Trial Chamber is composed of Judges Antonetti (presiding), Harhoff and Lattanzi. The trial started on 7 November 2007, but was adjourned on 11 February 2009. The trial recommenced on 12 January 2010. After the close of the prosecution's case-in-chief, the Trial Chamber, on 4 May 2011, ruled under rule 98 *bis* that there was enough evidence to support the counts alleged in the indictment. During an administrative hearing held on 23 August 2011, Šešelj confirmed that he would not present a defence case. Šešelj and the prosecution filed their final briefs on 30 January 2012 and 5 February 2012, respectively. Closing arguments were heard between 5 March and 20 March 2012. The judgement is being prepared.

(c) Contempt

Tupajić

55. Milan Tupajić was convicted of one count of contempt for his failure to appear at the Tribunal when subject to two subpoenas in the *Karadžić* case. His trial before the Chamber in the *Karadžić* case, consisting of Judges Kwon (presiding), Morrison, Baird and Lattanzi (reserve), was held on 3 February 2012. On 24 February 2012, the Chamber sentenced Tupajić to two months' imprisonment.

Rašić

56. Jelena Rašić, a former member of the Milan Lukić defence team, pleaded guilty to five charges of contempt for procuring false statements in exchange for money from three persons to be called as witnesses for the defence for Milan Lukić in *Prosecutor v. Milan Lukić and Sredoje Lukić*. At a hearing on 31 January 2012, the Trial Chamber, consisting of Judges Morrison (presiding), Picard and Nyambe

accepted Rašić's plea agreement. On 7 February 2012, the Chamber sentenced Rašić to 12 months' imprisonment, suspending the last eight months thereof for two years on condition that she not commit another crime punishable by imprisonment, including contempt.

(d) Rule 11 *bis* Referral Bench

57. The Rule 11 *bis* Referral Bench has transferred all low- and mid-level accused from its trial docket in accordance with Security Council resolution 1503 (2003).

(e) Specially Appointed Chamber (rule 75 (H) and (G), rule 75 *bis* and rule 75 *ter*)

58. The Specially Appointed Chamber has issued 20 decisions and orders, deciding on applications for access to confidential information and evidence from external applicants in nine cases.

C. Principal activity of the Appeals Chamber

(a) Interlocutory appeals

59. Fifteen decisions on interlocutory appeals were issued in the following cases: *Prlić et al.* (10); *Stanišić and Simatović* (2); *Stanišić and Župljanin* (1); and *Haradinaj et al.* (2).

(b) Contempt appeals

60. In *Prosecutor v. Florence Hartmann*, the Appeals Chamber converted the fine of 7,000 euros to a term of seven days of imprisonment.

61. Both Vojislav Šešelj and the amicus curiae prosecutor have appealed the trial judgement in *Prosecutor v. Vojislav Šešelj* (Case No. IT-03-67-R77.3), which found Šešelj guilty of one count of contempt of the Tribunal. The briefing of the appeal is currently in progress. Vojislav Šešelj also appealed the trial judgement in *Prosecutor v. Vojislav Šešelj* (Case No. IT-03-67-R77.4), which found Šešelj guilty of one count of contempt of the Tribunal. The briefing of that appeal is also currently in progress. In addition, both Jelena Rašić and the prosecution have appealed the sentence imposed by the Trial Chamber on 7 February 2012, which found Rašić guilty of five counts of contempt of the Tribunal. The briefing of the appeal is complete and a hearing will be held in due course.

(c) Appeals on the merits

62. The Appeals Chamber did not render any final judgements during the reporting period.

63. There are five appeals — *Prosecutor v. Nikola Šainovic et al.*, *Prosecutor v. Milan Lukić and Sredoje Lukić*, *Prosecutor v. Vujadin Popović et al.*, *Prosecutor v. Vlastimir Dorđević*, and *Prosecutor v. Ante Gotovina and Mladen Markač* — currently pending before the Appeals Chamber from previous reporting periods. One new appeal from judgement was filed before the Appeals Chamber in the *Perišić* case. Appeal hearings were held in the *Gotovina and Markač* and *Lukić and Lukić* cases. Judgements are due to be delivered during the second half of 2012 in both of

those cases. Pre-appeal activity is ongoing in the other cases of which the Appeals Chamber is seized.

(d) Other appeals

64. The Appeals Chamber rendered three decisions, in *Prosecutor v. Dragomir Milošević* (2) and *Prosecutor v. Naser Orić* (1).

65. A total of 135 pre-appeal decisions and orders were issued during the reporting period.

66. The Appeals Chamber is not seized of any review proceedings.

IV. Activity of the Office of the Prosecutor

A. Completion of trials and appeals

67. The beginning of the reporting period was marked by an important development when the last fugitive sought by the International Tribunal for the Former Yugoslavia, Goran Hadžić, was arrested in Serbia and transferred to the Tribunal at the end of July 2011. Since then, the Office of the Prosecutor has made substantial advances in finalizing its trial work. With the convergence of deadlines for final briefs and closing arguments in a number of trials, the Office of the Prosecutor is experiencing one of its busiest periods.

68. Currently, the *Hadžić* case is nearing the final stages of the pretrial phase; the *Mladić* case is in the prosecution evidence presentation phase, following the prosecution's opening statement in May 2012; the *Karadžić* case is in the pre-defence phase, following completion of the prosecution's evidence presentation and issuance of the Trial Chamber's judgement under rule 98 *bis*; and the *Stanišić and Simatović* case is in the final phase of presentation of evidence. In three other cases, the presentation of evidence has concluded and closing briefs and arguments have been scheduled (*Haradinaj et al.*, *Tolimir* and *Stanišić and Župljanin*). Two cases are awaiting judgement at the Trial Chamber level (*Prlić et al.* and *Šešelj*). In addition, six cases are on appeal (*Šainović et al.*, *Lukić and Lukić*, *Popović et al.*, *Đorđević*, *Gotovina and Markač* and *Perišić*) and contempt proceedings are ongoing in two cases (*Rašić* and *Šešelj*).

69. The Office of the Prosecutor successfully met its case-related obligations in the reporting period, notwithstanding serious budgetary and staffing constraints. Lack of regular funding for the *Mladić* and *Hadžić* trial teams until the beginning of 2012 resulted in many staff members working simultaneously on two or more trials, thus bearing unsustainably heavy workloads. In addition, the problem of staff attrition continues unabated. In the past reporting period, staff attrition included the Deputy Prosecutor, who left to assume the role of Prosecutor of the Special Tribunal for Lebanon. His position has not been filled and his duties are currently being shared among other members of senior management in the Office of the Prosecutor. Attrition has meant that remaining staff members continue to undertake multiple roles and the Office remains indebted to its staff for their commitment to the completion of the Tribunal's mandate. However, more sustainable staffing solutions must be found. Retaining staff with relevant expertise in the cases before the

Tribunal will be critical until the Tribunal's closure and the completion of all appellate work before the Residual Mechanism.

70. During the reporting period, the contempt proceedings arising from both the *Rašić* and *Šešelj* cases continued to divert already-depleted human resources. In particular, Šešelj persisted in flouting orders, which prohibit him from publishing confidential material.

71. In accordance with the downsizing process and transition to the Residual Mechanism, the Office of the Prosecutor continued to abolish posts, as trials reached completion. Staff members in the Immediate Office of the Prosecutor were actively involved in coordinating preparations for the Residual Mechanism and ensuring a smooth transition from the Tribunal to the Residual Mechanism.

B. Cooperation

72. The Tribunal continued to rely on the full cooperation of States to fulfil its mandate. The cooperation of States in the former Yugoslavia was particularly important.

73. Given that there no longer remain any fugitives indicted by the Tribunal, and subsequent to the January 2012 apprehension of Radovan Stanković, a transferee pursuant to rule 11 *bis* who had escaped from prison, cooperation with States in the former Yugoslavia was primarily focused on day-to-day support for ongoing trials and appeals. The Office of the Prosecutor continued to promote and assess cooperation with the region, and the Prosecutor continually renewed his efforts to foster working relations with national prosecutors. In September and November 2011, and again in April and May 2012, the Prosecutor met with officials in Zagreb, Sarajevo and Belgrade to discuss cooperation and other issues of mutual relevance.

1. Cooperation of Serbia

74. The ongoing cooperation of Serbia with the Office of the Prosecutor is vital to the successful progress of cases, especially given the tight deadlines faced by the *Mladić* and *Hadžić* trial teams. The Office required ongoing support from the Government of Serbia to access key documents and gather materials for the proper presentation of evidence to both the Trial and Appeals Chambers. In this regard, the cooperation of the Serbian authorities fully met expectations and the Office emphasizes the need to continue this collaborative working relationship in the next reporting period, under the newly elected President and Government of Serbia. Moreover, the Office expects that the Serbian authorities will provide prompt responses to outstanding requests for assistance.

75. The Office of the Prosecutor recognizes the efforts of the Serbian authorities, which resulted in the apprehension of Hadžić, the final indictee to be tried before the Tribunal. However, as the Office has repeatedly emphasized, Serbia must conduct a full investigation into the networks and individuals that harboured fugitives who had been indicted by the Tribunal, including Karadžić, Mladić and Hadžić, and hold those responsible to account. During the Prosecutor's visit to Belgrade in May 2012, the Serbian authorities provided very limited information concerning this issue. The Office notes press statements issued in June 2012 by the War Crimes Prosecutor of Serbia concerning progress made on the investigations.

The Office awaits a full report from the Serbian authorities about those developments and encourages the investigation to proceed as a matter of priority.

76. The Prosecutor has expressed concern about the comments made by the new President of Serbia, shortly after his election, denying that genocide occurred in Srebrenica in July 1995. The statements, which are not acceptable, contravene the legal and factual findings of the Tribunal and of the International Court of Justice. Such rhetoric is a step backwards, aggravates victims' suffering, and jeopardizes the fragile process of reconciliation in the former Yugoslavia.

2. Cooperation of Croatia

77. The Office of the Prosecutor continued to depend on cooperation from Croatia to complete trials and appeals in a timely manner. Over the course of the reporting period, the Croatian authorities provided timely and adequate responses to day-to-day requests from the Office for assistance and facilitated access to witnesses and evidence as required.

3. Cooperation of Bosnia and Herzegovina

78. During the reporting period, the authorities of Bosnia and Herzegovina responded promptly and adequately to the requests of the Office of the Prosecutor for documents, as well as access to Government archives. The Office commended the Bosnian authorities for the arrest of Radovan Stanković on 21 January 2012. In May 2007, he had escaped from the prison where he was serving a 20-year sentence. Stanković was the first indictee of the Tribunal to be transferred to Bosnia and Herzegovina pursuant to rule 11 *bis* of the Rules.

79. Delays continued in prosecuting cases for which the Office of the Prosecutor has provided investigative materials to Bosnia and Herzegovina (category 2 cases). During meetings with the Prosecutor in Sarajevo, in May 2012, the Special Department for War Crimes committed to completing investigations of category 2 cases by the end of the year and the Prosecutor encourages the Department to follow through on that commitment.

4. Cooperation between States of the former Yugoslavia in judicial matters

80. Improved cooperation between States of the former Yugoslavia is needed to ensure that the perpetrators of crimes committed during the conflict are brought to justice. The Office of the Prosecutor continued to facilitate collaboration between Serbia, Bosnia and Herzegovina, and Croatia to address impunity and foster productive working relationships between regional prosecutors.

81. However, the Office of the Prosecutor remained concerned about long-standing deficiencies in judicial and legislative frameworks, which undermine efforts to consolidate the rule of law in the region. In particular, judicial institutions across the region faced crippling challenges in coordinating their activities, which resulted in unacceptable delays. Additionally, legal barriers to the extradition of suspects and the transfer of evidence across State borders obstructed effective investigations.

82. The Office of the Prosecutor notes with concern that the proposed protocol between the Prosecutor's Offices of Bosnia and Herzegovina and Serbia on the exchange of evidence and information in war crimes cases has still not been signed.

When the Prosecutor addressed the issue at his meetings in Sarajevo in May 2012, he received no satisfactory explanation for the delay in signing the protocol. Political support to conclude the agreement is needed on all sides.

5. Cooperation of other States and organizations

83. Support from States outside of the former Yugoslavia, and international organizations, remains important to the successful completion of the Tribunal's mandate. To make progress expeditiously in its casework, the Office of the Prosecutor must continue to access the wealth of information held in the archives and other institutions of Member States. The Office acknowledges the assistance it received from the United Nations and its agencies, the European Union, the North Atlantic Treaty Organization (NATO), OSCE, the Council of Europe and non-governmental organizations, including those in the former Yugoslavia.

C. Support to national war crimes prosecutions and effective implementation of national war crimes strategies

84. As the Tribunal enters the final phase of its operations, the Office of the Prosecutor is increasingly focusing its attention on the transition to domestic war crimes prosecutions. The transition team, under the Prosecutor's direction, continued its work to strengthen the capacity of national judicial institutions to effectively handle the large volume of war crimes cases that remain to be prosecuted in the region. In this regard, the Office dealt with a growing number of requests for assistance, most of which were received from Bosnia and Herzegovina. Judicial authorities in the former Yugoslavia also continued to utilize procedures established under the Tribunal's Rules to access confidential evidence from the Tribunal's cases, where appropriate. The joint "liaison prosecutors" project of the European Union and the Tribunal, whereby three liaison prosecutors from the region (one each from Bosnia and Herzegovina, Croatia and Serbia) work with the Office of the Prosecutor in The Hague, remains a central component of the expertise transfer strategy of the Office. Three liaison prosecutors and 10 young professionals from the region continue to work in the Office, pursuant to the third funding extension granted by the European Commission, in August 2011.

85. However, serious issues remained, particularly regarding the implementation of the national war crimes strategy in Bosnia and Herzegovina. While steps were taken by Bosnia and Herzegovina to improve the processing of cases, such as increasing the rate of referral of cases from the State court to entity courts, the national war crimes strategy faced significant challenges. The Office of the Prosecutor underscores the importance of expeditiously addressing the large backlog of over 1,200 cases involving thousands of suspects, and emphasizes that this process is crucial to the overall success of the Tribunal's mandate completion and legacy. Continued efforts are needed to strengthen the capacity of entity-level courts, efforts which include increasing resource allocation at the State and entity levels.

86. Further, political attacks on the judiciary, which aim to undermine the national war crimes strategy, should cease. It is essential that political leaders from all sides in Bosnia and Herzegovina fully support war crimes prosecutions and provide all the necessary resources and support to ensure successful outcomes.

V. Activity of the Registry

87. During the reporting period, the Registry provided operational support to the Chambers and the Office of the Prosecutor, assisted in the conduct of relations with States and international organizations, provided administrative support for the Tribunal, and managed the Tribunal's Communications and Outreach Programme.

A. Office of the Registrar

88. The Immediate Office of the Registrar supported the Registrar in his overall responsibility of directing and managing the Registry, including supervising all Registry sections, and representing the Tribunal in its relations with the host State, embassies and ministries, the United Nations and other international organizations. Through the efforts of the Immediate Office of the Registrar, the Tribunal was able to increase the number of States committed to enforcing sentences rendered by the Tribunal.

89. The Immediate Office of the Registrar further assisted the Registrar in formulating and implementing the strategic priorities for the Registry, proactively adopting and streamlining operational procedures to reflect the shift in the Tribunal's activities from trials to appeals. The Immediate Office of the Registrar, together with the Division of Administration, put a special emphasis on devising a fair and transparent downsizing process for the reduction of posts in accordance with the Tribunal's completion strategy. Every staff member was issued a contract of the maximum possible duration. The measure was designed to give staff members maximum certainty about their future at the Tribunal and has contributed positively to staff morale, which is crucial for the retention of qualified and motivated staff.

90. The Immediate Office of the Registrar has assisted the Registrar in the establishment of the Residual Mechanism, and facilitated preparations for the commencement of its operations in Arusha, United Republic of Tanzania, on 1 July 2012. This facilitation involved substantial administrative and legal support for the Residual Mechanism, including: the preparation of the budget submission, negotiations on a host State agreement, the recruitment of staff, negotiations on premises and assets, the development of judicial support policies and procedures, and the preparation of the transfer of functions and related records to the Residual Mechanism.

91. The Outreach Programme continued to be the key instrument in strengthening the relationship between the Tribunal and communities in the former Yugoslavia, by promoting the Tribunal's work and legacy, and the important principle of open justice. Over 14,000 people in the former Yugoslavia and The Hague participated in a variety of outreach events, including debates, lectures, conferences and training sessions on the work of the Tribunal. The events helped reduce misconceptions and bridge knowledge gaps about the institution.

92. The most important outreach activities conducted during the reporting period included: an educational project with youth in the former Yugoslavia, engaging 3,200 young people aged between 16 and 25, which enjoyed strong support from ministries of education in the region; and a planned series of documentaries on the Tribunal's major achievements, which was launched with a film on the Tribunal's groundbreaking role in fighting impunity for wartime sexual violence. The film,

produced in all of the languages of the former Yugoslavia, received excellent reviews and stimulated in-depth debate in the region.

93. Currently, the Outreach Programme depends entirely on external funding. The European Commission continued to ensure the uninterrupted functioning of the Programme, and the Government of Finland supported the youth education project. As noted by the General Assembly and a number of other international and regional actors, more vigorous outreach engagement is crucial in this decisive time of the Tribunal's existence. Therefore, the Tribunal will continue to approach Member States and other donors to support activities included in its carefully designed outreach strategy.

94. During the reporting period the Tribunal hosted 8,000 visitors, a record number, including over 300 from the former Yugoslavia. Visits were especially valuable in raising awareness and capacity-building among members of local judiciaries, journalists and activists from non-governmental organizations from the former Yugoslavia. The Tribunal's website and social media platforms continued to be essential elements of the Tribunal's communication strategy. The Tribunal website has received more than 3 million page views since August 2011. The Tribunal's social media efforts have expanded, with the recent launch of a Facebook page, which gained 300 followers in its first two weeks of operation. Viewers of the Tribunal's YouTube channel have more than doubled since last year, reaching 900,000, while the Tribunal's Twitter account has 3,000 followers, some 1,000 more than in the previous reporting period. Users from the former Yugoslavia constitute almost 50 per cent of the latter audience.

95. The Communications Service worked on the creation of the website for the Residual Mechanism, which was launched in its official languages in mid-2012. At the time of writing, work is under way to translate the content into Bosnian/Croatian/Serbian and Kinyarwanda.

B. Judicial Support Division

96. In the reporting period, the Court Management and Support Services Section supported seven first-instance cases at trial, one retrial and one pretrial case. During the same period, the Section supported six cases on appeal and seven contempt cases, including one case which remains in pretrial. It provided court officer support for seven videoconference links, 10 rule 92 *bis* missions, and one site visit. The Section supported one hearing conducted under rule 4 of the Rules. It also supported three self-representing accused through its *pro se* legal liaison officers, facilitating solutions to issues arising in the course of the proceedings. The court records assistants, court officers and court ushers processed 8,598 filings (approximately 139,400 pages) submitted by parties and others in proceedings before the Tribunal. The Office of Document Management received 69,731 pages of translation requests, of which 16,231 were identified as duplicate pages, resulting in a saving of approximately $1,313,253.[1]

97. The Conference and Language Services Section continued to provide interpretation, translation and court reporting services for all the organs of the Tribunal. The translation units translated approximately 67,500 pages into English,

[1] Calculated at $81 per page that did not have to be resubmitted for translation.

French, Bosnian/Croatian/Serbian, Albanian and Macedonian, while constant trial support and translation of judgements and other legal documents continued and is still ongoing. The interpretation unit registered close to 3,600 conference interpreter days. The court reporting services produced over 58,000 transcript pages. Interpretation services were also provided for official meetings, witness proofing sessions, and missions away from the seat of the Tribunal, including in the region of the former Yugoslavia.

98. During the reporting period, the operations and support units of the Victims and Witnesses Section assisted 315 witnesses (and accompanying support persons) travelling to The Hague to give evidence. The Section's protection unit coordinated professional responses to an increased number of threats to witnesses before, during and after their appearances to give evidence in Tribunal proceedings, and worked on the relocation of protected witnesses.

99. The Office of Legal Aid and Detention Matters continued to manage the Tribunal's legal aid system by serving over 390 defence team members, thereby safeguarding the accused's right to counsel. The majority of accused who are in the Tribunal's custody receive legal aid, and 60 per cent of those accused are involved in cases ranked at the highest complexity level. The Office continued to manage the facilities granted to all defence teams, and to ensure full respect of the rights of the accused by responding to complaints and concerns of detainees held at the United Nations Detention Unit, processing requests for visits to the Unit, and acting as a liaison between defence counsel and the Tribunal. The Office further provided facilities to self-represented accused in cooperation with the *pro se* legal liaison office and the Unit, and managed the assignment and resources for amicus curiae investigators and prosecutors in contempt cases.

100. As the Tribunal works towards the completion of it mandate, the United Nations Detention Unit further reduced its cell capacity by 19 per cent, while continuing to provide security and care for an average of 32.7 detainees during the reporting period, under the authority of the Tribunal. Many detainees were provided with medical care, including specialist medical assistance. The Unit facilitated the detainees' presence at court hearings, whether in person or through videoconference. It facilitated a large number of requests for provisional releases of various durations, as ordered by the Chambers. The Unit assisted self-represented accused by providing them with extra storage and office space, granting computer and database access suited to a detention environment, and allowing for witness interviews and proofing in exceptional circumstances. The Unit accommodated detained witnesses and detainees charged with contempt of the Tribunal, and facilitated contact between detainees and the media, where appropriate.

C. Administrative Support Division

101. By its resolution 66/239, the General Assembly, having considered the reports of the Secretary-General and the Advisory Committee on Administrative and Budgetary Questions on the proposed programme budget, decided to appropriate a total amount of $281,036,100 gross for the biennium 2012-2013.

102. During the biennium 2012-2013, extrabudgetary resources are estimated at $1,739,300 to be utilized for a variety of Tribunal activities. As of 15 July 2012, cash donations of approximately $50.8 million had been received by the Voluntary

Fund over the lifetime of the Tribunal. For the period from 15 June 2011 to 15 July 2012, the Tribunal received and administered $1,876,889 in voluntary cash contributions.

103. In its resolution 66/240 A, the General Assembly decided to appropriate a total amount of $49,771,700 gross ($47,325,100 net) for the Residual Mechanism during the biennium 2012-2013.

104. The Division of Administration remained actively engaged in downsizing and the second comparative review process, which was formulated in consultation with staff representatives. During the biennium 2010-2011, the Tribunal downsized 170 posts. The approved budget for 2012-2013 contemplates a further net reduction of 120 posts during the upcoming biennium.

105. The Division of Administration coordinated the preparation of the revised budget estimates for the biennium 2010-2011 and the proposed budget for the biennium 2012-2013. The Division of Administration was heavily involved in the formulation of the first budget of the Residual Mechanism. Following the closure of one of the three office buildings in The Hague, the Division of Administration finalized an office space allocation master plan in order to ensure the smooth relocation of personnel and archives to the remaining buildings of the Tribunal.

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Prevention of armed conflict

Protracted conflicts in the GUAM area and their implications for international peace, security and development

The situation in the occupied territories of Azerbaijan

Letter dated 1 August 2012 from the Permanent Representative of Armenia to the United Nations addressed to the Secretary-General

Upon instructions from my Government, I have the honour to draw your attention to the ongoing violations of the ceasefire by the military forces of the Republic of Azerbaijan recorded for July 2012 (see annex).

I should be grateful if you would circulate the present letter and its annex as a document of the General Assembly, under agenda items 34, 35 and 39, and of the Security Council.

(*Signed*) Garen **Nazarian**
Ambassador
Permanent Representative

12-45143 (E) 150812

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Annex to the letter dated 1 August 2012 from the Permanent Representative of Armenia to the United Nations addressed to the Secretary-General

Violations of the ceasefire by the armed forces of the Republic of Azerbaijan from 1 to 31 July 2012

1. On the borderline of the Nagorno Karabakh Republic:

Total number of violations — 1,200

Total number of shots – 5,358

PK – 773, SVD — 560, AK – 3,820, DSHK – 81, RPK – 55, Sev net – 3, Istigal – 51, RPG – 1, NSVT – 4

2. On the borderline of the Republic of Armenia (see table below):

Total number of violations — 274

Total number of shots – 4,352

PK – 1,739, SVD — 351, Sev net – 127, AK – 1,589, RPK – 20, DSHK – 366, Utyos – 160

Number	*Date*	*Direction*	*Time*	*Type of weapon*	*Ammunition*	*Results of violations*
1.	1 July	Barcruni	2230	SVD	5	
2.				PK	30	
3.			2305	SVD	4	
4.				PK	40	
5.		Baghanis	2245	AK	12	
6.	2 July	Voskepar	1725	AK	4	
7.		Barekamavan	2010	AK	4	
8.			2010	AK	4	
9.		Berqaber	2350	AK	20	
10.	3 July	Khndzorut	0015	AK	20	
11.		Chinari	0340	AK	2	
12.			2145	SVD	1	
13.		Movses	1605	PK	40	
14.			1845	AK	2	
15.		Aygepar	2045	AK	3	
16.		Berqaber	2210	PK	7	

Number	*Date*	*Direction*	*Time*	*Type of weapon*	*Ammunition*	*Results of violations*
17.	4 July	Vazashen	0240	PK	55	
18.			0240	AK	4	
19.			0245	AK	40	
20.		Kuturdag	1300	DSHK	11	
21.		Koti	1530	PK	8	
22.		Aygepar	1730	AK	1	
23.		Berdavan	1735	SVD	10	
24.				PK	10	
25.				AK	10	
26.	5 July	Movses	2145	AK	18	
27.		Barcruni	1330	AK	4	
28.			2100	AK	3	
29.	6 July	Berdavan	0020	AK	7	
30.		Chinari	1900	AK	2	
31.		Barcruni	2125	PK	2	
32.			2200	AK	4	
33.				SVD	9	
34.		Movses	2245	AK	11	
35.		Aygepar	2245	AK	2	
36.		Voskepar	2315	AK	20	
37.		Khndzorut	2315	AK	26	
38.			2340	AK	40	
39.				RPK	20	
40.	7 July	Sarigyugh	0055	AK	25	At 1215 p.m. Armenian armed forces serviceman Levon Tamrazyan was fatally wounded from the fire of the Azerbaijani side 450 metres from the village of Paravaqar at the borderline in the combat outpost, while conducting military engineering activities.
41.			0130	AK	5	
42.		Voskepar	0005	AK	7	
43.		Barcruni	1140	PK	2	
44.			1350	SVD	3	
45.			2350	PK	3	

Number	*Date*	*Direction*	*Time*	*Type of weapon*	*Ammunition*	*Results of violations*
46.		Chinari	1940	SVD	2	
47.			1945	SVD	1	
48.		Paravaqar	1215	AK	1	
49.			2020	PK	110	
50.				SVD	35	
51.				AK	55	
52.		Movses	2100	SVD	8	
53.		Aygepar	2305	AK	3	
54.		Kiranc	2315	PK	7	
55.	8 July	Vazashen	0010	PK	10	
56.				AK	3	
57.		Baghanis	0200	PK	60	
58.				AK	20	
59.		Movses	0215	AK	4	
60.			0215	AK	3	
61.			0300	AK	5	
62.			1645-1700	AK	12	
63.			2350	AK	4	
64.		Aygepar	0915	AK	1	
65.			1025	AK	1	
66.		Yanshak	1930-2010	DSHK	150	
67.				Utyos	150	
68.				PK	50	
69.		Chinari	0925	SVD	10	
70.				AK	5	
71.			2345-2350	SVD	9	
72.				AK	4	
73.		Barcruni	1020	SVD	10	
74.		Koti	2050	AK	15	

Number	*Date*	*Direction*	*Time*	*Type of weapon*	*Ammunition*	*Results of violations*
75.			2205	AK	3	
76.	9 July	Arevaberd	1230	DSHK	6	
77.			1810	DSHK	10	
78.				AK	25	
79.				AK	10	
80.		Nerqin Karmiraghbyur	2235	PK	25	
81.		Barcruni	2230	AK	4	
82.	10 July	Chinari	1900	PK	10	
83.		Movses	2340	AK	2	
84.			2345	AK	2	
85.		Nerqin Karmiraghbyur	2350	AK	2	
86.	11 July	Chinari	0035	AK	2	
87.			1135	SVD	1	
88.			1730	Black Arrow	3	
89.			1750	SVD	7	
90.		Aygepar	1130	SVD	6	
91.			1825	PK	1	
92.		Berqaber	1945-2010	PK	20	
93.		Nerqin Karmiraghbyur	2230	AK	5	
94.		Koti	2250	AK	3	
95.		Berdavan	2315	AK	5	
96.	12 July	Aygepar	1140	SVD	4	
97.			1635	SVD	2	
98.		Movses	1140	AK	2	
99.			2340	AK	5	
100.		Vazashen	2210	PK	8	
101.		Khndzorut	2225	AK	2	

Number	*Date*	*Direction*	*Time*	*Type of weapon*	*Ammunition*	*Results of violations*
102.	13 July	Khndzorut	0045	AK	30	
103.			0145	SVD	5	
104.			1455	AK	1	
105.				SVD	1	
106.		Baghanis	1805	AK	1	
107.			2110	PK	1	
108.				AK	10	
109.			2230	AK	6	
110.		Berqaber	2235	AK	3	
111.		Movses	2330	DSHK	9	
112.				PK	35	
113.	14 July	Yanshak	0900-0920	Black Arrow	15	
114.		Aygepar	1225	AK	1	
115.		Nerqin Karmiraghbyur	1415	AK	1	
116.		Barcruni	1820	Black Arrow	7	
117.		Baghanis	1910	AK	3	
118.			2340	AK	2	
119.		Chinari	2150	SVD	5	
120.			2330	AK	15	
121.	15 July	Movses	1735	AK	1	
122.		Barcruni	1820	SVD	3	
123.		Aygedzor	2130	AK	75	
124.	16 July	Berdavan	0001	AK	15	
125.			0020	PK	5	
126.				AK	10	
127.		Movses	0010	AK	1	
128.		Nerqin Karmiraghbyur	0020	AK	4	
129.		Berqaber	0155	AK	3	

Number	*Date*	*Direction*	*Time*	*Type of weapon*	*Ammunition*	*Results of violations*
130.		Barcruni	2020	SVD	15	
131.			2030	PK	50	
132.	17 July	Nerqin Karmiraghbyur	1230	AK	2	
133.			2105	AK	3	
134.		Barcruni	1445	SVD	12	
135.				Black Arrow	21	
136.		Chinari	1635	PK	20	
137.				SVD	2	
138.		Movses	1855	AK	4	
139.			1955	AK	5	
140.			2040	AK	10	
141.			2105	AK	8	
142.		Lev	2200	Black Arrow	10	
143.				DSHK	20	
144.		Aygepar	2215	AK	1	
145.	18 July	Khndzorut	0105	SVD	2	
146.		Paravaqar	0155	AK	25	
147.				PK	40	
148.			0235	PK	15	
149.		Lev	0220	PK	15	
150.		Barcruni	1200	Black Arrow	4	
151.				SVD	30	
152.				PK	15	
153.			1715	PK	25	
154.			1730	SVD	3	
155.				Black Arrow	4	
156.				PK	45	
157.			1815	Sev net	4	

Number	*Date*	*Direction*	*Time*	*Type of weapon*	*Ammunition*	*Results of violations*
158.			1830	DSHK	10	
159.		Movses	1720	AK	3	
160.			2115	AK	15	
161.	19 July	Baghanis	1030	AK	1	
162.		Aygepar	1520	AK	3	
163.		Movses	1535	DSHK	2	
164.			1915	AK	3	
165.	20 July	Movses	0030	AK	2	
166.		Aygepar	0150	AK	1	
167.			1120	AK	3	
168.		Nerqin Karmiraghbyur	0150	AK	1	
169.			2030	AK	2	
170.		Eraskh	1700	AK	2	
171.		Baghanis	1820	AK	2	
172.	21 July	Chinari	0230	SVD	10	At midnight 800 metres from the village of Nerqin Karmiraghbyur a civilian from that village, Gor Parsyan, was wounded by the Azerbaijani side while performing agricultural work.
173.				AK	15	
174.			0230	PK	20	
175.			1440	SVD	7	
176.			1455	SVD	15	
177.				PK	100	
178.				DSHK	40	
179.		Nerqin Karmiraghbyur	1200	DSHK	25	
180.				PK	20	
181.			1805	DSHK	6	
182.		Movses	1340	AK	5	
183.			2230	DSHK	4	
184.		Berdavan	2120	PK	20	
185.	22 July	Barcruni	1645	Black Arrow	2	

Number	Date	Direction	Time	Type of weapon	Ammunition	Results of violations
186.				PK	10	
187.			2055	PK	20	
188.		Baghanis	2045	AK	4	
189.		Chinari	2100	PK	15	
190.		Paravaqar	2100-2120	AK	150	
191.				SVD	30	
192.				DSHK	20	
193.		Aygedzor	2240	AK	10	
194.	23 July	Nerqin Karmiraghbyur	0835	AK	2	
195.			1240	AK	6	
196.		Chinari	1635	PK	15	
197.				SVD	5	
198.				DSHK	10	
199.			2315	AK	23	
200.				Black Arrow	1	
201.		Mehrab	1710	AK	2	
202.		Choporlu	1850	Black Arrow	2	
203.				DSHK	4	
204.				PK	4	
205.			1910	Black Arrow	3	
206.				DSHK	4	
207.		Movses	2310-2325	AK	31	
208.	24 July	Movses	0001	AK	25	
209.			2250	AK	12	
210.		Baghanis	0430	AK	8	
211.		Vazashen	1045	PK	20	
212.		Shavarshavan	1050	AK	4	
213.		Bareruni	1050	AK	90	

Number	*Date*	*Direction*	*Time*	*Type of weapon*	*Ammunition*	*Results of violations*
214.				PK	100	
215.		Vahan	1935	PK	15	
216.		Chinari	2010	Black Arrow	8	
217.			2130	AK	6	
218.		Nerqin Karmiraghbyur	2035	AK	2	
219.	25 July	Barcruni	0920	AK	20	
220.				PK	100	
221.				Black Arrow	7	
222.		Nerqin Karmiraghbyur	1650	AK	5	
223.			2330	AK	2	
224.		Lev	1830	DSHK	25	
225.				Utyos	10	
226.				Black Arrow	6	
227.				PK	100	
228.	26 July	Chinari	0110	PK	15	
229.			0110-0130	PK	35	
230.				AK	45	
231.			2230	SVD	20	
232.				AK	80	
233.		Tigranakert	1305	AK	2	
234.		Lev	1400	Black Arrow	5	
235.				PK	60	
236.			1410	Black Arrow	20	
237.				PK	10	
238.		Barcruni	2055	AK	20	
239.				PK	30	
240.			2135	AK	30	
241.		Baghanis	2225	AK	10	

Number	*Date*	*Direction*	*Time*	*Type of weapon*	*Ammunition*	*Results of violations*
242.			2305	AK	10	
243.				PK	5	
244.			2315	AK	15	
245.				PK	6	
246.		Movses	2320	AK	4	
247.	27 July	Mehrab	1220	Black Arrow	1	
248.		Aygepar	1555	PK	30	
249.		Barcruni	1840	Black Arrow	4	
250.				PK	100	
251.				SVD	40	
252.				AK	30	
253.	28 July	Chinari	2130	SVD	4	
254.				AK	15	
255.				PK	6	
256.		Aygepar	2330	PK	6	
257.	29 July	Chinari	1435	SVD	3	
258.			1800	AK	10	
259.		Movses	1825	AK	5	
260.			1930	AK	7	
261.	30 July	Aygepar	0120	AK	8	
262.			1830	AK	12	
263.		Paravaqar	1130	AK	20	
264.			1440	AK	10	
265.		Barcruni	1815	PK	20	
266.		Shavarshavan	2035	PK	6	
267.	31 July	Voskepar	0020	AK	8	
268.		Barcruni	1130	PK	10	
269.			1235	PK	30	
270.				SVD	12	
271.		Chinari	1950	DSHK	10	

Number	*Date*	*Direction*	*Time*	*Type of weapon*	*Ammunition*	*Results of violations*
272.				PK	40	
273.			1950	AK	40	
274.		Berdavan	2355	PK	7	

Abbreviations:
PK – Kalashnikov machine gun
SVD – 7.9 mm sniper weapon
AK – Kalashnikov rifle
DSHK – 12.7 mm machine gun
RPK – 5.45 mm machine gun
'Utyos – 12.7 mm machine gun
NSVT – 12.7 mm machine gun
Istigal – 14.5 mm machine gun
Sev net – 12.7 mm sniper weapon
RPG – Rocket-propelled grenade